

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 1. RULES AND THE RULEMAKING PROCESS

CHAPTER 1. SECRETARY OF STATE RULES AND RULEMAKING

Editor's Note: The following Notice of Final Rulemaking was exempt from review of Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 1429.)

[R11-84]

PREAMBLE

1. Sections Affected

R1-1-102
R1-1-210
R1-1-212
R1-1-415
R1-1-502
R1-1-507
R1-1-602
R1-1-701
R1-1-801
R1-1-902

Rulemaking Action

Amend
Amend
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Amend
Amend

2. The statutory authority for the rulemaking, including both the authorizing statutes (general) and the statute the rules are implementing (specific):

Authorizing statute: A.R.S. § 41-1011

Implementing statutes: A.R.S. §§ 41-1001 through 41-1036

3. The effective date of the rules:

September 5, 2011

4. A list of all previous notices appearing in the *Register* addressing the final rules:

Notice of Rulemaking Docket Opening: 16 A.A.R. 1912, September 24, 2010

Notice of Proposed Rulemaking: 16 A.A.R. 1892, September 24, 2010

Notice of Supplemental Proposed Rulemaking: 17 A.A.R. 148, February 11, 2011

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Scott Cancelosi
Director, Public Services Division

Address: Office of the Secretary of State
1700 W. Washington St., 7th Floor
Phoenix, AZ 85007

Telephone: (602) 542-0223

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E-mail: scancelosi@azsos.gov

6. An explanation of the rules, including the agency's reasons for initiating the rules:

The Office is amending the Secretary of State's rules on the rulemaking process to make citation references consistent with current statute, improve clarity, and comply with mandated statutory updates.

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The Office will focus on rules pertaining to office forms to assist with rule review under Laws 2010, Ch. 287 (H.B. 2260). The Governor’s Regulatory Review Council and the Office are both updating its rules under these laws.

Mandated additions for rule review include: whether the rules requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used; whether federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, the citation to the statutory authority to exceed the requirements of federal law; and whether a person submitted an analysis to the agency that compares the rules’ impact of the competitiveness of business in this state to the impact on businesses in other states. If yes, an analysis will be filed with the rulemaking.

Other mandated amendments include updates under Laws 2010, Ch. 88 (H.B. 2209, § 3) which pertain to Notices of Agency Ombudsman filed with the Office.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

Statutory changes have necessitated the amendments to these rules. A beneficial economic impact is expected for consumers since the rules clarify filing requirements and assist the Governor’s Regulatory Review Council in reviewing rulemaking packages. According to the Governor’s Regulatory Review Council the statutory changes will apply to 100 state agencies subject to G.R.R.C. review. G.R.R.C. is updating its rules to ensure compliance to statutory changes as well. See 16 A.A.R. 2310, for a detailed explanation of G.R.R.C.’s economic, small business, and consumer impact summary.

The economic impact of the rulemaking for the Office is expected to be minimal, with little or no impact other than to update forms that are made available and posted online.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Unless otherwise indicated, revisions were initiated by the Office.

<u>Section/subsection</u>	<u>Revision and reason</u>
Codification Outline	
R1-1-102(A)	A sentence fragment was identified in this subsection by Mark Lewandowski, rules analyst for the Department of Environmental Quality. The Office corrected the fragment. His comment was received via e-mail. The Office also included “recodified” in this subsection.
Notice of Agency Guidance Document; Notice of Substantive Policy Statement	
R1-1-210	Punctuation errors were identified in this Section by John Lindley, rules analyst for the Department of Transportation. The Office corrected the punctuation errors. Comments were received in writing. Additionally, the Office relabeled notice requirements to be consistent with other amendments in this Chapter.
R1-1-210(A)	“Submit” is stricken, with “prepare and file” underlined and added for clarity.
R1-1-210(A)(3)	Text stricken: “the same”
R1-1-210(B)	“Submit” is stricken, with “prepare and file” underlined and added for clarity.
R1-1-210(C)	To be consistent with the rest of the amendments to this Chapter “a notice” is stricken with “An Agency shall file” added for clarity. Added “form” per the definition of “notice form” in R1-1-101.
R1-1-210(D)(2)	The Office changed the subsection copy requirements from two copies to one.
Agency Ombudsman	
R1-1-212(A)	To clarify the notice type, the Office added the definition of “ombudsman.”
R1-1-212(D)	For accuracy of filings the requirements in the Notice of Agency Ombudsman subsections were relabeled.
R1-1-212(D)(2)	The subsection was amended to better explain form requirements.
R1-1-212(E)(2)	The Office changed the subsection copy requirements from two copies to one.

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Section/subsection	Revision and reason
Repeal of a Section; New Text – added to rulemaking	
R1-1-415	Clarifications to the definition of a rulemaking action of repeal or amend for Articles and Parts were suggested in oral comments by G.R.R.C. Attorney Scott Cooley. The Office amended R1-1-415 in response. The Office also is striking the word “language” throughout this Section.
R1-1-415(B)(1) & (2)	The Office is removing “deletes language” as originally proposed and is adding “strikes text” as this is the proper terminology used by the Office.
Notice of Proposed Rulemaking	
R1-1-502	Punctuation inconsistencies were identified in this Section by John Lindley, rules analyst for the Department of Transportation. He also suggested striking “notice” in R1-1-502(B). The Office corrected and amended this Section. Prepare “and file” were added for clarity by the Office.
R1-1-502(B)(5)(a) and (b)	The Office added Articles and Parts to this subsection at the oral request of G.R.R.C. Attorney Scott Cooley. For consistency the Office added Articles and Parts to similar Sections in this rulemaking package as well.
R1-1-502(B)(5)(b)(i)	The Office added a citation to R1-1-415 for clarification between an amend and a repeal of an Article or Part heading.
R1-1-502(B)(5)(b)(ii)	A manifest typographical error was identified in this Section by John Lindley, rules analyst for the Department of Transportation. “That” as proposed should be “than” and was corrected by the Office.
R1-1-502(B)(7)	The Office amended the original text “A list of” and changed it to “Citations to.” The Office also changed the proposed amendment “to include the <i>Register</i> volume and page number” to the citation reference R1-1-409(A), the rule that specifies how citations are written in the <i>Register</i> .
R1-1-502(B)(11)	Mark Lewandowski, rules analyst for the Department of Environmental Quality requested that the Office revise the proposed amendment of “show” back to “showing” as customary usage in legal terminology. The Office made the change. His comment was received via e-mail and orally. The Office changed similar subsections throughout this rulemaking for consistency.
R1-1-502(B)(14)	This subsection was amended by the Office to be consistent with other rulemaking notices.
R1-1-502(B)(15)	This subsection was amended to ensure all agencies answer the first question; while only agencies subject to Council review answer the second question and subsequent subsections that followed it.
R1-1-502(B)(15)(c)	The Office moved the subsection to include a copy of the analysis comparing the rule’s impact of the competitiveness of business in this state to the impact on business in other states to R1-1-502(C).
R1-1-502(B)(18)(b), (c), and (d)	The Office added new subsections (b), (c), and (d) to clarify how to list the Title, Chapter, and if applicable, the Subchapter after the Preamble. Relabeled the subsection as necessary.
R1-1-502(B)(18)(e)	The Office changed fourth level subsections as necessary for consistency.
R1-1-502(B)(18)(e)(i)	The Office clarified when Article and Part headings should be listed in the notice.
R1-1-502(B)(18)(e)(ii)	The Office changed the word “title” to “name”
R1-1-502(B)(18)(e)(iii) and (iv)	Mark Lewandowski, rules analyst for the Department of Environmental Quality suggested amending this subsection as follows: “Current rule text being deleted or repealed shall be stricken” (<i>Editor’s note: Words in bold indicate revised language.</i>) The Office amended the subsection for clarification as suggested and added a subsection for rule text being made as new text, R1-1-502(B)(18)(d)(iv).
R1-1-502(C)	The Office added a subsection for filing copies of analysis comparing the rule’s impact of the competitiveness of business in this state to the impact on business in other states.
Notice of Supplemental Proposed Rulemaking	
R1-1-507(A)	Prepare “and file” were added for clarity by the Office. The Office moved the last sentence to subsection (B)(6) using appropriate striking and underlining.

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Section/subsection	Revision and reason
R1-1-507(B)(5)(a)	The Office changed this subsection “to include the <i>Register</i> volume and page number” to the citation R1-1-409(A), the rule that specifies how citations are written in the <i>Register</i> .
R1-1-507(B)(5)(b)	The Office added Articles and Parts to this subsection at the oral request of G.R.R.C. Attorney Scott Cooley. For consistency the Office added Articles and Parts to similar Sections in this rulemaking package as well.
R1-1-507(B)(5)(h)	Mark Lewandowski, rules analyst for the Department of Environmental Quality requested that the Office revise the proposed amendment of “show” back to “showing” as customary usage in legal terminology. The Office made the change. His comment was received via e-mail and orally. The Office changed similar subsections throughout this rulemaking for consistency.
R1-1-507(B)(5)(k)	The Office changed the text in this subsection so it is consistent with other notices.
R1-1-507(B)(5)(l)	This subsection was amended to ensure all agencies answer the first question; while only agencies subject to Council review answer the second question and subsequent subsections that followed it. The Office moved the text about including a copy of the analysis comparing the rule’s impact of the competitiveness of business in this state to the impact on business in other states to R1-1-507(C). Text was updated to match existing language.
R1-1-507(B)(6)	The Office added: <u>A supplemental notice shall contain every Section undergoing change from the current text in the Code, as if the supplemental notice were the agency’s first version of the proposed rulemaking.</u>
R1-1-507(C)	The Office added a subsection for filing copies of analysis comparing the rule’s impact of the competitiveness of business in this state to the impact on business in other states.
Notice of Final Rulemaking	
R1-1-602	Punctuation errors were identified in this Section by John Lindley, rules analyst for the Department of Transportation. The Office corrected the punctuation errors. Comments were received in writing.
R1-1-602(B)(5)(a)	The Office added Articles and Parts to this subsection at the oral request of G.R.R.C. Attorney Scott Cooley. For consistency the Office added Articles and Parts to similar Sections in this rulemaking package as well.
R1-1-602(B)(5)(c)(i) and (ii)	Manifest clerical errors of an additional “the” were identified in subsections by John Lindley, rules analyst for the Department of Transportation. The office removed the extraneous “the” from each subsection.
R1-1-602(B)(5)(d)	The Office changed “A list of” to “citations to.” Also the Office revised “to include the <i>Register</i> volume and page number” to the citation to R1-1-409(A), the rule that specifies how citations are written in the <i>Register</i> .
R1-1-602(B)(5)(h)	Mark Lewandowski, rules analyst for the Department of Environmental Quality requested that the Office revise the proposed amendment of “show” back to “showing” as customary usage in legal terminology. The Office made the change. His comment was received via e-mail and orally. The Office changed similar subsections throughout this rulemaking for consistency.
R1-1-602(B)(5)(g)	The Office corrected the subsection to reflect current existing language.
R1-1-602(B)(5)(l)	This subsection was amended to ensure all agencies answer the first question; while only agencies subject to Council review answer the second question and subsequent subsections that followed it. The Office moved the part about including a copy of the analysis comparing the rule’s impact of the competitiveness of business in this state to the impact on business in other states to R1-1-602(C).
R1-1-602(B)(5)(n)	The Office added: <u>If so, cite the notice published in the Register as specified in R1-1-409(A).</u>
R1-1-602(B)(7)	The Office added subsection 7. <u>An agency shall submit a final rulemaking package to either the Council or the Attorney General for review as specified in R1-1-105.</u> This makes it clear that the agency shall file the rulemaking package with either for review. This addition is consistent with R1-1-701(C).

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Section/subsection	Revision and reason
R1-1-602(C)	The Office added a subsection for filing copies of analysis comparing the rule's impact of the competitiveness of business in this state to the impact on business in other states.
R1-1-602(C)(1)	The Office changed the subsection to better reflect existing language some of which is now in subsection (C)(4).
R1-1-602(C)(2)	John Lindley, rules analyst for the Department of Transportation stated the text in this subsection was open to interpretation. He suggested revising the subsection about the Attorney General Certificate. The Office made the change.
R1-1-602(C)(2)(b)	The Office changed "described" to "specified."
R1-1-602(D)	The Office added this subsection to help clarify the filing responsibilities of Council and the Attorney General.
Notice of Emergency Rulemaking	
R1-1-701	Manifest typographical errors were identified by John Lindley, rules analyst for the Department of Transportation. The Office made corrections.
R1-1-701(B)(5)(a)	The Office added Articles and Parts to this subsection at the oral request of G.R.R.C. Attorney Scott Cooley. For consistency the Office added Articles and Parts to similar Sections in this rulemaking package as well.
R1-1-701(B)(5)(d)	The Office added striking to "renewal of." Additionally, the word "to" was added as shown in written comments by John Lindley to read: "... that pertain to the record ...". The Office also changed "A list of all" to "Citations to" and revised "to include the Register volume and page number" to the citation to R1-1-409(A), the rule that specifies how citations are written in the Register.
R1-1-701(B)(5)(h)	Mark Lewandowski, rules analyst for the Department of Environmental Quality requested that the Office revise the proposed amendment of "show" back to "showing" as customary usage in legal terminology. The Office made the change. His comment was received via e-mail and orally. The Office changed similar subsections throughout this rulemaking for consistency.
R1-1-701(B)(5)(j)	The Office moved the language to include a copy of the analysis comparing the rule's impact of the competitiveness of business in this state to the impact on business in other states to R1-1-701(C).
R1-1-701(C)	The Office added a subsection for filing copies of analysis comparing the rule's impact of the competitiveness of business in this state to the impact on business in other states.
R1-1-701(C)(4)	An incorrect Section citation was identified in this subsection by John Lindley, rules analyst for the Department of Transportation. The Office corrected the error.
R1-1-701(D)	The Office changed "described" to "specified."
R1-1-701(E)	John Lindley, rules analyst for the Department of Transportation stated the text in this subsection was open to interpretation. He suggested revising the subsection about the Attorney General Certificate. The Office made the change.
Notice of Summary Rulemaking	
R1-1-801	Manifest clerical errors were identified by John Lindley, rules analyst for the Department of Transportation. The Office made corrections.
R1-1-801(B)(5)	A manifest clerical error was identified by John Lindley, rules analyst for the Department of Transportation. The Office corrected the omission of "Proposed" to read: "The Preamble of the Notice of Proposed Summary"
R1-1-801(B)(5)(a)	The Office added Articles and Parts to this subsection at the oral request of G.R.R.C. Attorney Scott Cooley. For consistency the Office added Articles and Parts to similar Sections in this rulemaking package as well.
R1-1-801(B)(5)(e)	The Office corrected the subsection to reflect existing language.
R1-1-801(B)(5)(f)	Mark Lewandowski, rules analyst for the Department of Environmental Quality requested that the Office revise the proposed amendment of "show" back to "showing" as customary usage in legal terminology. The Office made the change. His comment was received via e-mail and orally. The Office changed similar subsections throughout this rulemaking for consistency.
R1-1-801(B)(5)(j)	The Office changed this subsection so language would be consistent with other rulemaking notices.

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Section/subsection	Revision and reason
R1-1-801(B)(5)(l)	This subsection was changed as all agencies able to file a summary rulemaking package are subject to Council review, therefore the specification of agencies reviewed by Council is not necessary. The Office moved the language to include a copy of the analysis comparing the rule's impact of the competitiveness of business in this state to the impact on business in other states to R1-1-701(C).
R1-1-801(D)(5)(a)	The Office added Articles and Parts to this subsection at the oral request of G.R.R.C. Attorney Scott Cooley. For consistency the Office added Articles and Parts to similar Sections in this rulemaking package as well.
R1-1-801(D)(5)(d)	The Office added missing "of" to this sentence as identified by John Lindley and by the Office. The Office changed the subsection to reflect the language in other Sections to: <u>4.d Citations to all related notices published in The the Register citation for the as specified in R1-1-109(A) that pertain to the record of the Notice of Proposed Final Summary Rulemaking package.</u>
R1-1-801(D)(5)(g)	The Office corrected the subsection to reflect existing language.
R1-1-801(D)(5)(h)	Mark Lewandowski, rules analyst for the Department of Environmental Quality requested that the Office revise the proposed amendment of "show" back to "showing" as customary usage in legal terminology. The Office made the change. His comment was received via e-mail and orally. The Office changed similar subsections throughout this rulemaking for consistency.
R1-1-801(D)(5)(l)	The Office changed this subsection as all agencies able to file a summary rulemaking package are subject to Council review, therefore the specification of agencies reviewed by Council is unnecessary.
R1-1-801(E)	The Office added a subsection for filing copies of analysis comparing the rule's impact of the competitiveness of business in this state to the impact on business in other states. The Office also added a subsection about the Notice of Final Summary Rulemaking Council certificate.
R1-1-801(E)(6)	The Office deleted "subject to Council review" as all summary rulemakings are subject to Council review.
Notice of Exempt Rulemaking	
R1-1-902	Manifest clerical errors were identified by John Lindley, rules analyst for the Department of Transportation. The Office made corrections.
R1-1-902(B)(5)(a)	The Office added Articles and Parts to this subsection at the oral request of G.R.R.C. Attorney Scott Cooley. For consistency the Office added Articles and Parts to similar Sections in this rulemaking package as well.
R1-1-902(B)(5)(d)	The Office changed "A list of" to "Citations to" and revised "to include the <i>Register</i> volume and page number" to R1-1-409(A), the rule that specifies how citations are written in the <i>Register</i> .
R1-1-902(B)(5)(f)	The Office reworded the subsection to match other notices on rulemaking.
R1-1-902(B)(5)(g)	The Office corrected the subsection to reflect current existing language.
R1-1-902(B)(5)(h)	Mark Lewandowski, rules analyst for the Department of Environmental Quality requested that the Office revise the proposed amendment of "show" back to "showing" as customary usage in legal terminology. The Office made the change. His comment was received via e-mail and orally. The Office changed similar subsections throughout this rulemaking for consistency.
R1-1-902(B)(5)(j)	The Office made the subsection consistent with other rulemaking notice Articles.
R1-1-902(B)(5)(l)	The Office changed this subsection as a Notice of Exempt Rulemaking is not subject to Council review. The Office moved the language to include a copy of the analysis comparing the rule's impact of the competitiveness of business in this state to the impact on business in other states to R1-1-902(C).
R1-1-902(C)	The Office added a subsection for filing copies of analysis comparing the rule's impact of the competitiveness of business in this state to the impact on business in other states; and also added more specific rule references for the Agency Certificate.

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11. A summary of the comments made regarding the rules and the agency response to them:

No comments were received between the Notice of Supplemental Proposed Rulemaking and the Notice of Final Rulemaking.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rules or class of rules:

None

13. Incorporations by reference and their location in the rules:

None

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 1. RULES AND THE RULEMAKING PROCESS

**CHAPTER 1. SECRETARY OF STATE
RULES AND RULEMAKING**

ARTICLE 1. GENERAL PROVISIONS

Section
R1-1-102. Codification Outline

ARTICLE 2. THE ARIZONA ADMINISTRATIVE REGISTER

Section
R1-1-210. Notice of Agency Guidance Document; Notice of Substantive Policy Statement
R1-1-212. Agency Ombudsman

ARTICLE 4. RULE DRAFTING

Section
R1-1-415. ~~Repeal of a~~ Rulemaking Actions for an Article, Part, Section, Table, Appendix or Exhibit; New Text

ARTICLE 5. PROPOSED RULEMAKING

Section
R1-1-502. Notice of Proposed Rulemaking
R1-1-507. Notice of Supplemental Proposed Rulemaking

ARTICLE 6. FINAL RULEMAKING

Section
R1-1-602. Notice of Final Rulemaking

ARTICLE 7. EMERGENCY RULEMAKING

Section
R1-1-701. Notice of Emergency Rulemaking

ARTICLE 8. SUMMARY RULEMAKING

Section
R1-1-801. Notice of Summary Rulemaking

ARTICLE 9. EXEMPT RULEMAKING

Section
R1-1-902. Notice of Exempt Rulemaking

ARTICLE 1. GENERAL PROVISIONS

R1-1-102. Codification Outline

A. All rules filed with the Office and made, amended, renumbered, recodified, or repealed and filed with the Office after September 30, 1992, will be published in the *Register* or the *Code*, as appropriate under:

1. the The Act, or

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2. ~~under an exemption~~ Exempt from all or part of the rulemaking process ~~specified as required in:~~
 - a. ~~the The Act, or~~
 - b. Arizona Revised Statute, or
 - c. As provided in the Constitution of Arizona, and rules made under an exemption from the Act by other statutes and submitted to the Office after September 30, 1992;
- B.** ~~are~~ Rules shall be organized published within the following Titles:
1. Title 1. Rules and the Rulemaking Process
 2. Title 2. Administration
 3. Title 3. Agriculture
 4. Title 4. Professions and Occupations
 5. Title 5. Corrections
 6. Title 6. Economic Security
 7. Title 7. Education
 8. Title 8. Emergency and Military Affairs
 9. Title 9. Health Services
 10. Title 10. Law
 11. Title 11. Mines
 12. Title 12. Natural Resources
 13. Title 13. Public Safety
 14. Title 14. Public Service Corporations; Corporations and Associations; Securities Regulation
 15. Title 15. Revenue
 16. Title 16. Tax Appeals
 17. Title 17. Transportation
 18. Title 18. Environmental Quality
 19. Title 19. Alcohol, Horse and Dog Racing, Lottery, and Gaming
 20. Title 20. Commerce, ~~Banking,~~ Financial Institutions, and Insurance

ARTICLE 2. THE ARIZONA ADMINISTRATIVE REGISTER

R1-1-210. Notice of Agency Guidance Document; Notice of Substantive Policy Statement

- A.** An agency shall ~~submit to the Office~~ prepare and file a Notice of Agency Guidance Document under A.R.S. § 41-1013(B)(14) for publication in the *Register*. ~~This notice~~ A Notice of Agency Guidance Document shall contain:
1. On a centered line one inch from the top of the page, the heading in all capital letters, NOTICE OF AGENCY GUIDANCE DOCUMENT, in all capital letters, centered on a line approximately one inch from the top of the page;
 2. ~~followed by the name of the agency below the notice heading and also~~ On a centered on the line under the notice heading and in all capital letters, the name of the agency.
 3. Under the agency name, followed by the items listed below in the same numbered order:
 - 1-a. Title of the guidance document and the guidance document number by which the document is referenced;
 - 2-b. Date of the publication of the guidance document and the effective date of the document if different from the publication date;
 - 3-c. Summary of the contents of the guidance document; and
 - 4-d. Statement as to whether the guidance document is a new document or a revision.
 - e. The agency contact person who can answer questions about the agency guidance document. The information shall include the contact's:
 - i. Name;
 - ii. Address;
 - iii. Area code and telephone number; and
 - iv. Fax number, e-mail and web site addresses, if applicable.
 - f. Information about where a person may obtain a copy of the guidance document and the costs for obtaining the guidance document.
- B.** An agency shall ~~submit to the Office~~ prepare and file a Notice of Substantive Policy Statement, under A.R.S. § 41-1013(B)(14), for publication in the *Register*. ~~This notice~~ A Notice of Substantive Policy Statement shall contain:
1. On a centered line one inch from the top of the page, the heading in all capital letters, NOTICE OF SUBSTANTIVE POLICY STATEMENT, in all capital letters, centered on a line approximately one inch from the top of the page;
 2. ~~followed by the name of the agency below~~ On a centered line under the notice heading and also centered on the line; and in all capital letters, the name of the agency.
 3. Under the agency name, followed by the items listed below in the same numbered order:
 - 1-a. Title of the substantive policy statement and the substantive policy statement number by which the substantive policy statement is referenced;
 - 2-b. Date the substantive policy statement was issued and the effective date of the policy statement if different from

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the issuance date;

3-c. Summary of the contents of the substantive policy statement;

4-d. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement; and

5-e. Statement as to whether the substantive policy statement is a new statement or a revision.

f. The agency contact person who can answer questions about the substantive policy statement. The information shall include the contact's:

i. Name;

ii. Address;

iii. Area code and telephone number; and

iv. Fax number, e-mail and web site addresses, if applicable.

g. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement.

C. ~~A notice~~ An agency shall ~~electron~~ file only one notice per agency guidance document or substantive policy statement.

D. A Notice of Agency Guidance Document or a Notice of Substantive Policy Statement shall include:

1. Two agency receipts as specified in R1-1-106, and

2. An original and one copy of the completed notice form as specified in R1-1-103(B), (C), (E)(1), (6), and (7).

R1-1-212. Agency Ombudsman

A. ~~An agency shall designating designate~~ an agency ombudsman under A.R.S. § 41-1006. "Ombudsman" as used in this Section means the employee or employees designated by the agency to assist members of the public or regulated community.

B. An agency shall prepare and file a Notice of Agency Ombudsman with the Office at least annually no later than February 1 December 31 of each year to the Office for publication in the Register.

C. An agency shall file only one notice per ombudsman.

D. The notice shall contain:

1. On a centered line one inch from the top of the page, the heading in all capital letters, NOTICE OF AGENCY OMBUDSMAN, in all capital letters, centered on a line approximately one inch from the top of the page followed by the items listed below

2. Under the notice heading, in the same numbered order:

1-a. The agency's name;

2-b. ~~The~~ Under the agency's name, list in numbered order the ombudsman's:

i. ~~name~~ Name;

3-ii. ~~The ombudsman's title~~ Title;

iii. Agency division, if applicable;

4-iv. ~~The ombudsman's office~~ Office address, to include the city, state, and including zip code; and

5-v. ~~The ombudsman's office~~ Area code and telephone number, and fax number, and e-mail address, if available.

E. A Notice of Agency Ombudsman shall include:

1. Two agency receipts as specified in R1-1-106, and

2. An original and one copy of the completed notice form as specified in R1-1-103(B), (C), (E)(1), (6), and (7).

ARTICLE 4. RULE DRAFTING

R1-1-415. ~~Repeal of a Rulemaking Actions for an Article, Part, Section, Table, Appendix or Exhibit; New Text~~

A. An agency shall list rulemaking actions in the preamble of a rulemaking package as specified in R1-1-502(B)(5) and as required in R1-1-103.

B. Article or Part Headings Actions:

1. An agency that strikes text in an Article or Part heading in its entirety, with active Sections remaining under the Article or Part, shall list the rulemaking action to an Article or Part as "Amend."

2. An agency that strikes text in an Article or Part heading in its entirety, without active Sections remaining under the Article or Part, shall list the rulemaking action to an Article or Part as "Repeal."

C. Section, Table, Appendix or Exhibit Actions: If an An agency that ~~deletes strikes the language~~ text or images in an existing Section, Table, Appendix or Exhibit and simultaneously ~~inserts~~ makes new language text or images at the same Section, Table, Appendix or Exhibit number, the rulemaking action of the change listed in item #1 of the Preamble shall list the rulemaking action as ~~be one of the following~~:

1. A "Repeal" and "New Section" or "New Table" or "New Appendix" or "New Exhibit" if both the text of the Section, Table, Appendix or Exhibit and the Section, Table, Appendix or Exhibit heading are completely changed; or

2. An "Amend" if the entire existing Section, Table, Appendix or Exhibit text is repealed, but the Section, Table, Appendix or Exhibit heading is not completely changed.

ARTICLE 5. PROPOSED RULEMAKING

R1-1-502. Notice of Proposed Rulemaking

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- A. ~~If an agency determines~~ A proposed new Section, an amendment to a Section, or a repeal of an existing Section, or a renumbering ~~renumber~~ of a Section, meets the provisions of A.R.S. § 41-1022 and the Act, the agency shall prepare and file when other changes are also being made, submitted for publication in the Register shall be part of a Notice of Proposed Rulemaking as prescribed in this Section. Questions, answers, and other information required to appear in the Preamble of the Notice of Proposed Rulemaking shall appear in the proper order. No question on the notice may be answered "See attached." Supplemental pages may not be used.
- B. ~~The A notice~~ Notice of Proposed Rulemaking shall contain:
1. On a centered line one inch from the top of the page, the heading in all capital letters, NOTICE OF PROPOSED RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page;
 2. On a centered line under the notice heading, the agency's Code followed by the Title, its number, and heading centered on the line under the notice heading;
 3. On a centered line under the Title number and heading, the agency's Code followed by the Subchapter, its label and heading (if applicable) centered on the line under the Title, followed by the Chapter, its number and heading centered on the line under the Title;
 4. If applicable, on a centered line under the Chapter number and heading, the agency's Code Subchapter label and heading.
 5. On a centered line under the Chapter heading or Subchapter label, whichever is applicable, followed by the word heading in all capital letters and underlined, PREAMBLE in all capital letters, on a line under the Chapter, The Preamble of the Notice of Proposed Rulemaking shall include followed by the items listed below in the same numbered order:
 - ~~1-a. The In~~ In two columns a list of Articles, Parts, or Sections Affected affected and the Rulemaking rulemaking Action action of each Article, Part, or Section affected in two columns;
 - ~~a-b. In the~~ The first column shall contain the heading "Articles, Parts, and Sections Affected" under, each Section upon which shall list in sequential and numerical order; rulemaking activity is being proposed shall appear in numerical order under the heading "Sections Affected."
 - i. If an Article Articles or Part Parts affected if is involved in the rulemaking because its an Article heading or Part label or heading is being made, repealed, added, amended, or repealed as specified in R1-1-415, or renumbered, the Article and its label or the Part and its label shall appear in this list in its appropriate order immediately preceding the Sections contained in that Article or Part. Article headings or Part labels shall be listed multiple times, each on a separate line, if the Article or Part has more than one rulemaking action. Article headings or Part labels that do not have a rulemaking action directly applied to the headings or labels shall not be listed.
 - ii. Under each Article or Part affected in subsection (B)(5)(a)(i), if applicable, shall be a list of Section numbers of Sections being made, amended, repealed or renumbered. Section numbers shall be listed multiple times, each on a separate line, if the Section has more than one rulemaking action applied to it. A Section that currently exists but has no rulemaking action applied to the Section shall not be listed.
 - iii. Sections, Parts, and Articles shall not be grouped together in this column; each Section, Part, or Article shall appear individually.
 - iiii. If an existing Section is being repealed and new text is being made at that number or if the text of an existing Section is being renumbered and new text, either totally new language or text renumbered from another Section, is being placed at that number, the Section number will appear multiple times with the appropriate individual actions appearing in the second column.
 - iv. A Section not containing text before the rulemaking and not having text added by the rulemaking shall not appear in this column.
 - ~~b-c. In the~~ The second column, shall contain the rulemaking activity occurring on each Section shall be specified directly across from and on the same line as the Section number under the heading "Rulemaking Action;" under which will be listed the rulemaking activity being applied to each Article, Part or Section listed in the first column. If an existing Section is being repealed and new text made at that number, the Section number shall appear twice in the first column and each specific individual action shall appear in the second column.
 - i. A Section that:
 - i. contains Has no text because # the Section was previously reserved, repealed, or renumbered cannot be have a rulemaking action listed as amended, renumbered, or recodified. A previously repealed Section cannot be repealed again unless new text has subsequently been made at the Section number.
 - ii. If a Section has Has more than one rulemaking action on it in a rulemaking applied to the Section, shall the listing list the actions, each on a separate line, order in the second column shall be as follows: repeal, renumber, and new Section, or amend.
 - 2-6. The Citations to the agency's specific statutory rulemaking authority for the rulemaking, to including include both the authorizing statute (general) and the implementing statute (specific);
 - 3-7. A list of Citations to all previous related notices appearing published in the Register addressing as specified in R1-1-409(A) that pertain to the record of the proposed rule;

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- 4-8. The agency's contact person who can answer questions about the rulemaking. This information shall include the contact's:
 - a. ~~name~~ Name; and
 - b. ~~address~~ Address of agency personnel with whom persons may communicate regarding the rulemaking;
 - c. Area code and telephone number; and
 - d. Fax number, e-mail and web site addresses, if applicable.
- 5-9. An agency's justification and reason why a rule should be made, amended, repealed or renumbered explanation of the rule, to including include an explanation about the agency's reasons for initiating the rulemaking;
- 6-10. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material;
- 7-11. A showing of good cause why the rule rulemaking is necessary to promote a statewide interest if the rule rulemaking will diminish a previous grant of authority of a political subdivision of this state;
- 8-12. The preliminary summary of the economic, small business, and consumer impact;
- 9-13. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement. This information shall include the contact's:
 - a. ~~name~~ Name; and
 - b. ~~address~~ Address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement;
 - c. Area code and telephone number; and
 - d. Fax number, e-mail and web site addresses, if applicable.
- 10-14. The time, place, and nature of the proceedings for the making, amendment to make, amend, or repeal, or renumber of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule;
- 11-15. Any All agencies shall list any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules; and, Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:
 - a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used;
 - b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law; and
 - c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states.
- 12-16. A list of Any any material incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules.
- 13-17. The phrase "The full text of the rules follows:"
18. The full text of the rules in the rulemaking package shall begin on the next page after the last item in the Preamble. The text of the rules shall contain in sequential order:
 - a. The first item in the text shall be a table of contents for the Chapter showing the label and heading for Under the Preamble, on a centered line, the agency's Code Title number and heading.
 - b. On a centered line under the Title number and heading, the agency's Code Chapter number and heading.
 - c. If applicable, on a centered line under the Chapter number and heading, the agency's Subchapter label and heading.
 - d. Under the Chapter or Subchapter heading, whichever is applicable, shall be a list as prescribed in subsections (B)(18)(d)(i) through (iv): each Article and each Section involved in the proposed rulemaking.
 - i. On a centered line under the Chapter number and its heading, list the first Article number and its heading that has Sections undergoing a rulemaking action or with Article heading text being made, amended, renumbered, or repealed.
 - ii. If applicable, on a centered line under the Article number and its heading, list the Part number and its label with Sections undergoing a rulemaking action or with Part label text being made, amended, renumbered or repealed.
 - iii. Under the Article heading, or Part label if applicable, at the left margin, list the Section numbers and their headings for those Sections undergoing a rulemaking action. A Section shall not be listed if the Section does not have a rulemaking action assigned to the Section.
 - iv. A Chapter, Subchapter, Article, Part or Section heading with text being made, amended, renumbered or repealed shall have the text written as described in R1-1-502(18)(e)(iii) and (iv).
 - b-e. Under the list in subsection (B)(18)(d) the next page shall be The the full text of the Sections on which rulemaking is taking place shall begin on the next page after the table of contents being made, amended, repealed or renumbered. The text shall:

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- i. ~~Include, if applicable, in sequential and numerical order, Articles Article numbers and their headings, and Parts Part and their headings if applicable, shall appear in labels and their headings if any of the Sections within the Article or Part are their proper place in the text even when only a portion of the Article or Part is involved in the rulemaking package being made, amended, repealed, or renumbered or if the heading of the Article or Part is undergoing a rulemaking action. The text shall appear as follows:~~
- i-ii. ~~Include Section numbers listed in numerical order that follow the numbering scheme in R1-1-403. A Section shall always contain a heading, whether it is to specify the name of a rule, or to label the Section as renumbered or repealed. If the rulemaking package consists of all new rules, the text of the rules shall be properly labeled, in numerical order by Section number, and shall indicate Articles and Parts and their labels and headings. New Section numbers, headings, and text shall be underlined. If a currently existing Section number numbers currently exists in the Code, it shall not be underlined.~~
- ii. ~~If the rulemaking package consists of only repeals of existing complete Sections, the full text of the Sections being repealed shall appear in numerical order by Section number and shall indicate Articles and Parts including their labels and headings. Repealed Section headings and text shall be stricken. The Section numbers of repealed Sections shall not be stricken.~~
- iii. ~~Specify current rule text being deleted or repealed as stricken.~~
- iv. ~~Specify rule text being made as new text as underlined.~~
- iii-v. ~~If the rulemaking package consists of amended Sections or a combination of amended Sections, new Sections, and repealed Sections, the full text of all Sections on which rulemaking action is occurring shall appear with underlining indicating new language and strike-outs indicating repealed language. Within a Section, have stricken text shall appear before new, underlined text.~~
- e-f. ~~An agency amending that amends some but not all of the subsections in a Section may list the subsections not being amended by the subsection label only and the words "No change" Each level of subsection designated as having no change shall be individually noted labeled. Subsections shall not be grouped together.~~
- d-g. ~~If an An agency that is renumbering renumbers an existing Section, the agency shall show strike the current Section number with strike-outs, and the The new Section number shall be underlined immediately beside next to the current stricken number. Renumbered rules Sections shall appear in the text at the location of their new numbers be in numerical order with the text of the rule at the location of the new Section number. If the only action being taken on a Section is to renumber it, immediately under the Section number and its heading shall appear the words "No change" to indicate that the text is not changing being amended. If an existing Section is renumbered and no text is added made, amended, or repealed at the current Section number, the current Section number shall appear be listed in its proper numerical order with strike-outs through the old heading but not through the Section number, and with a the new heading underlined and labeled "Renumbered," shall be added with underlining.~~

C. A proposed rulemaking package shall include:

1. ~~Two agency receipts as specified in R1-1-106;~~
2. ~~An original and two copies of the agency certificate as specified in R1-1-105;~~
3. ~~An original and two copies of the rulemaking package as specified in R1-1-103; and~~
4. ~~An agency subject to Council review that received an analysis comparing the rule's impact of the competitiveness of business in this state to the impact on business in other states, shall file the analysis with the rulemaking.~~

R1-1-507. Notice of Supplemental Proposed Rulemaking

- A. ~~If an agency determines it meets the requirements of A.R.S. § 41-1022(E) and that a filed and published proposed rule requires substantial change due to either internal review or public comments, the agency shall prepare and file a supplemental notice Notice of Supplemental Proposed Rulemaking for publication in the Register as prescribed in this Section. A supplemental notice shall contain every Section undergoing change from the current text in the Code, as if the supplemental notice were the agency's first version of the proposed rule.~~
- B. ~~The supplemental notice A Notice of Supplemental Proposed Rulemaking shall contain:~~
 1. ~~On a centered line one inch from the top of the page, the heading, in all capital letters, NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING in all capital letters, located one inch from the top of the page;~~
 2. ~~followed by the On a centered line under the notice heading, the agency's Code Title, its number; and heading below the notice heading;~~
 3. ~~On a centered line under the Title number and heading, the agency's Code followed by the Chapter, its number; and heading below the Title;~~
 4. ~~If applicable, on a centered line under the Chapter number and heading, the agency's Code followed by the Subchapter, its label; and heading below the Chapter, if applicable;~~
 5. ~~On a centered line under the Chapter or Subchapter heading, whichever is applicable, followed by the word heading in all capital letters and underlined, PREAMBLE in all capital letters, below the Chapter or Subchapter, all of which shall be centered on their respective lines. The Preamble of the Notice of Supplemental Proposed Rulemaking shall include, followed by the items listed below in the same numbered order:~~
 - 1-a. ~~The Register citations Citations to the agency's and dates for the Notice of Rulemaking Docket Opening, the~~

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Notice of Proposed Rulemaking, and any other Notices of Supplemental Proposed Rulemaking, if applicable; as published in the Register as specified in R1-1-409(A). A list of any other related notices published in the Register as specified in R1-1-409(A).

- ~~2-b. The A list of Articles, Parts, or Sections Affected affected and the Rulemaking Action rulemaking action of each Article, Part, or Section affected in two columns as specified in R1-1-502(B)(4) R1-1-502(B)(5);~~
 - ~~3-c. The Citations to the agency's specific statutory rulemaking authority for the rulemaking to including include both the authorizing statute (general) and the implementing statute (specific);~~
 - ~~4-d. The agency's contact person who can answer questions about the rulemaking. This information shall include the contact's:
 - ~~i. name Name; and~~
 - ~~ii. address Address of agency personnel with whom persons may communicate regarding the rulemaking;~~
 - ~~iii. Area code and telephone number; and~~
 - ~~iv. Fax number, e-mail and web site addresses, if applicable.~~~~
 - ~~5-e. An agency's justification and reason why a explanation of the rule should be made, amended, repealed, or renumbered, to including include the agency's reasons for initiating an explanation about the rulemaking;~~
 - ~~f. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material.~~
 - ~~6-g. An explanation of the substantial change that resulted in the supplemental notice;~~
 - ~~7-h. A showing of good cause why the rule rulemaking is necessary to promote a statewide interest if the rule rule-making will diminish a previous grant of authority of a political subdivision;~~
 - ~~8-i. The preliminary summary of the economic, small business, and consumer impact;~~
 - ~~9-j. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement. This information shall include the contact's:
 - ~~i. name Name; and~~
 - ~~ii. address Address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement;~~
 - ~~iii. Area code and telephone number; and~~
 - ~~iv. Fax number, e-mail and web site addresses, if applicable.~~~~
 - ~~10-k. The time, place, and nature of the oral proceedings for the to making, make, amendment, amend, or repeal, or renumber of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the supplemental proposed rule;~~
 - ~~11-l. Any All agencies shall list any other matters prescribed by statute and applicable to the specific agency or to any specific rule or class of rules; and, Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:
 - ~~i. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used;~~
 - ~~ii. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law; and~~
 - ~~iii. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states.~~~~
 - ~~12-m. A list of Any any material incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the text rules.~~
 - ~~13-n. The phrase "The full text of the rules follows:".~~
6. The full text of the changes rules in the rulemaking package shall begin on the page after the last page of the Preamble and contain the text as specified in R1-1-502(B)(18). A supplemental notice shall contain every Section undergoing change from the current text in the Code, as if the supplemental notice were the agency's first version of the proposed rulemaking.
- C. A supplemental proposed rulemaking package shall include:**
1. Two agency receipts as specified in R1-1-106;
 2. An original and two copies of the agency certificate as specified in R1-1-105;
 3. An original and two copies of the rulemaking package as specified in R1-1-103; and
 4. An agency subject to Council review that received an analysis comparing the rule's impact of the competitiveness of business in this state to the impact on business in other states, shall file the analysis with the rulemaking.

ARTICLE 6. FINAL RULEMAKING

R1-1-602. Notice of Final Rulemaking

- A.** If an agency determines it meets the requirements of A.R.S. § 41-1024 and other requirements in the Act an agency shall prepare a Notice of Final Rulemaking as prescribed in this Section.

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~~A-B.~~ A Notice of Final Rulemaking shall contain:

1. ~~On a centered line one inch from the top of the page, the heading in all capital letters, NOTICE OF FINAL RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page;~~
2. ~~followed by the~~ On a centered line under the notice heading, the agency's Code Title, its number, and heading entered on a line under the notice heading;
3. ~~On a centered line under the Title number and heading, the agency's Code followed by the Chapter, its number, and heading entered on a line below the Title;~~
4. ~~If applicable, on a centered line under the Chapter number and heading, the agency's Code followed by the Subchapter, its label, and heading entered on a line below the Chapter, if applicable;~~
5. On a centered line under the Chapter or Subchapter heading, whichever is applicable, followed by the term heading in all capital letters and underlined, PREAMBLE in all capital letters, centered on a line below the Chapter or Subchapter, whichever is applicable; The Preamble of the Notice of Final Rulemaking shall include, followed by the items listed below in the same numbered order:
 - 1-a. ~~The A list of Articles, Parts, or Sections Affected affected and the Rulemaking Action rulemaking action of each Article, Part, or Section affected in two columns as specified in R1-1-502(B)(4) R1-1-502(B)(5);~~
 - 2-b. ~~The Citations to the agency's specific statutory rulemaking authority for the rulemaking; to including include both the authorizing statute (general) and the implementing statute (specific);~~
 - 3-c. ~~The effective date of the rule; If an agency specifies a date:~~
 - a-i. ~~If the effective date is earlier Earlier than the 60 days day effective date as specified in A.R.S. § 41-1032(A), after the date the final rule is filed with the Office, an agency shall specify include the earlier date, along with and state the reason for the or reasons it selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5); or~~
 - b-ii. ~~If the effective date is later Later than the 60 days day effective date as specified in A.R.S. § 41-1032(A), after the date the final rule is filed with the Office, an agency shall specify include the later date, along with and state the reason for the or reasons it selected the later effective date as provided in A.R.S. § 41-1032(B);~~
 - 4-d. ~~A list of Citations to all previous related notices appearing published in the Register addressing as specified in R1-1-409(A) that pertain to the record of the final rule rulemaking package;~~
 - 5-e. ~~The agency's contact person who can answer questions about the rulemaking. This information shall include the contact's:~~
 - i. ~~name Name; and~~
 - ii. ~~address Address of agency personnel with whom persons may communicate regarding the rulemaking;~~
 - iii. ~~Area code and telephone number; and~~
 - iv. ~~Fax number, e-mail and web site addresses, if applicable.~~
 - 6-f. ~~An agency's justification and reason why a rule should be made, amended, repealed, or renumbered explanation of the rule, to including include an explanation about the agency's reasons for initiating the rulemaking;~~
 - 7-g. ~~A reference to any study relevant to the rule that the agency reviewed and either relied on or did not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material;~~
 - 8-h. ~~A showing of good cause why the rule rulemaking is necessary to promote a statewide interest if the rule rulemaking will diminish a previous grant of authority of a political subdivision of this state;~~
 - 9-i. ~~A summary of the economic, small business, and consumer impact;~~
 - 10-j. ~~A description of the any changes between the proposed rule rulemaking, to including include supplemental notices, and the final rule rulemaking;~~
 - 11-k. ~~An agency's A summary of the public or stakeholder comments made regarding about the rule rulemaking and the agency response to them the comments;~~
 - 12-l. ~~Any All agencies shall list any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules; and. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:~~
 - i. ~~Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used;~~
 - ii. ~~Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law; and~~
 - iii. ~~Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states.~~
 - 13-m. ~~A list of Any any material incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the text rule;~~
 - 14-n. ~~Whether the rule was previously made, amended or repealed as an emergency rule, and, if If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state whether where the text was changed between the making as an emergency and the making of the final rule rulemaking packages; and~~

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~~15-o.~~ The phrase “The full text of the rules follows:”.

6. The full text of the rules in the rulemaking package shall begin on the next page after the last item in the Preamble and contain the text as specified in R1-1-502(B)(18).
7. An agency shall submit a final rulemaking package to either the Council or the Attorney General for review as specified in R1-1-105.

- ~~B.C.~~ An original A final rulemaking package submitted to the Office for filing and publication shall include:
1. ~~two Two copies of the agency receipt receipts as specified in R1-1-106; one copy of incorporated by reference material, and the original and two copies of the rulemaking package, including the following documents:~~
 2. A An original and two copies of the certificate of approval of the rules from either the:
 - a. by Council, if the rules are subject to Council review as specified in R1-1-105; or
 - 3-b. A certificate of approval from the Attorney General, if the rules are subject to Attorney General review as specified in R1-1-105.
 - 4-3. An original and two copies of the agency certificate as specified in R1-1-105;
 4. An original and two copies of the rulemaking package as specified in R1-1-103;
 - 4-5. The An economic, small business, and consumer impact statement if required by A.R.S. § 41-1055, if applicable; and
 6. An agency subject to Council review that received an analysis comparing the rule’s impact of the competitiveness of business in this state to the impact on business in other states, shall file the analysis with the rulemaking.
- D.** If the Notice of Final Rulemaking is subject to review by:
1. Council, the Council shall file the final rulemaking package, to include all documents listed under subsection (C), with the Office as specified in R1-1-601(A).
 2. The Attorney General, the Attorney General shall file the final rulemaking package, to include all documents listed under subsection (C), with the Office as specified in R1-1-601(C).

ARTICLE 7. EMERGENCY RULEMAKING

R1-1-701. Notice of Emergency Rulemaking

- A.** If an agency determines that a proposed new Section, an amendment to a Section, or a repeal of an existing Section falls meets within the emergency provisions of A.R.S. § 41-1026, the agency shall prepare a Notice of Emergency Rulemaking as prescribed in this Section.
- B.** The A Notice of Emergency Rulemaking shall contain:
1. On a centered line one inch from the top of the page, the heading in all capital letters, NOTICE OF EMERGENCY RULEMAKING in all capital letters, centered on the line approximately one inch from the top of the page;
 2. followed by the On a centered line under the notice heading, the agency’s Code Title, its number, and heading, centered on a line below the notice heading;
 3. followed by the On a centered line under the Title, the agency’s Code Chapter, its number, and heading, centered on a line below the Title;
 4. If applicable, on a centered line under the Chapter number and heading the agency’s Code followed by the Subchapter, its label, and heading, if applicable;
 5. On a centered line under the Chapter or Subchapter heading, whichever is applicable, followed by the term heading in all capital letters and underlined, PREAMBLE in all capital letters centered on a line below the Chapter or Subchapter, whichever is applicable; The Preamble of the Notice of Emergency Rulemaking shall include, followed by the items listed below in the same numbered order:
 - 1-a. The A list of Articles, Parts, or Sections Affected affected and the Rulemaking Action rulemaking action of each Article, Part, or Section affected in two columns, as specified in R1-1-502(B)(1) R1-1-502(B)(5);
 - 2-b. The Citations to the agency’s specific statutory rulemaking authority for the rulemaking to including include both the authorizing statute (general) and the implementing statute (specific);
 - 3-c. The effective date of the rule; If an agency specifies a date:
 - a.i. If the effective date is earlier Earlier than the 60 days day effective date as specified in A.R.S. § 41-1032(A) after the date the final rule is filed with the Office, an agency shall specify include the earlier date, along with and state the reason for the or reasons it selected the earlier effective date; as provided in A.R.S. § 41-1032(B), or
 - b.ii. If the effective date is later Later than the 60 days day effective date as specified in A.R.S. § 41-1032(A) after the date the final rule is filed with the Office, an agency shall specify include the date, along with and state the reason for the or reasons it selected the later effective date as provided in A.R.S. § 41-1032(B);
 - 4-d. Citations to all related Whether the rulemaking is a renewal of a previous emergency rulemaking notices and, if so, published in the Register as specified in R1-1-409(A) that pertain to the record of citation to the previous this notice of emergency rulemaking and the Register issue date;
 - 5-e. The agency’s contact person who can answer questions about the rulemaking. This information shall include the contact’s:

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- i. name Name; and
- ii. address Address of agency personnel with whom persons may communicate regarding the rulemaking;
- iii. Area code and telephone number; and
- iv. Fax number, e-mail and web site addresses, if applicable.
- 6-f. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered explanation of the rule, to including include an explanation about the agency's reasons for initiating the rulemaking;
- g. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material.
- 7-h. A showing of good cause why the rule rulemaking is necessary to promote a statewide interest if the rule rule-making will diminish a previous grant of authority of a political subdivision of this state;
- 8-i. The A summary of the economic, small business, and consumer impact summary;
- 9-j. Any other matters prescribed by statute and applicable to the specific agency or to any specific rule or class of rules; When applicable, matters shall include but are not limited to:
 - i. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used;
 - ii. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law; and
 - iii. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states.
- 10-k. A list of Any any material incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the text rule;
- 11-l. An agency explanation of about the situation justifying the rule's making rulemaking as an emergency rule;
- 12-m. The date of the Attorney General's General approval approved of the rule; and
- 13-n. The phrase "The full text of the rules follows:".
- 6. The full text of the rules in the rulemaking package shall begin on the page after the last page of the Preamble and contain the text as specified in R1-1-502(B)(13) R1-1-502(B)(18).
- ~~B-C.~~ An agency shall submit the an emergency rulemaking package to the Attorney General for approval review. The package shall contain an agency certificate as specified in R1-1-105(A) before filing the rules with the Office and two copies of a receipt form as specified in R1-1-106.
- ~~C-D.~~ The Attorney General shall indicate approval of the emergency rulemaking package by signing prepare a certificate of approval as specified in R1-1-105.
- E. An emergency rulemaking package shall include:
 - 1. Two agency receipts as specified in R1-1-106;
 - 2. An original and two copies of the agency certificate as specified in R1-1-105;
 - 3. An original and two copies of the certificate of approval or disapproval from the Attorney General as specified in subsection (D).
 - 4. An original and two copies of the rulemaking package as specified in R1-1-103;
 - 5. An economic, small business, and consumer impact statement if required by A.R.S. § 41-1055; and
 - 6. An agency that received an analysis comparing the rule's impact of the competitiveness of business in this state to the impact on business in other states, shall file the analysis with the rulemaking.
- ~~F.~~ The Attorney General which shall be attached to the first page of the original of the notice, and shall forward the original and two copies of the rules to file the emergency rulemaking package, to include all documents listed under subsection (E), with the Office. If the Attorney General does not approve one or more Sections in the rulemaking, the Attorney General shall prepare a certificate of disapproval and attach it to the package. If the rulemaking contains more than one Section, and the Attorney General approves at least one Section and disapproves at least one Section, the Attorney General shall attach a certificate of approval and a certificate of disapproval to the rules.
- ~~D-G.~~ Emergency rules are effective in effect for 180 days and may be renewed for an additional 180-day period, under the provisions of A.R.S. § 41-1026.
- ~~E-H.~~ Emergency rules may be renewed for an additional 180-day period under the provisions of A.R.S. § 41-1026. If an agency amends the text of a rule renewed emergency rule differs from the text of the previous emergency rule, the agency shall submit to the Office, at the time of filing the renewed emergency rule, prepare a list of every change amendment made to the renewed emergency rule since the previous emergency rule was made. The list of amendments shall be included and attached to the renewal notice when filed with the Office.
- ~~F.~~ An agency shall prepare a notice of renewal of an emergency rule in the manner prescribed in this Section.

ARTICLE 8. SUMMARY RULEMAKING

R1-1-801. Notice of Summary Rulemaking

- A. If an agency determines it meets the requirements of A.R.S. § 41-1027 and other requirements in the Act an agency shall

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prepare a Notice of Summary Rulemaking as prescribed in this Section.

A.B. ~~When submitting a proposed summary rule to the Office for filing and for publication in the Register, an agency shall prepare a~~ A Notice of Proposed Summary Rulemaking shall contain:

- ~~1. On a centered line one inch from the top of the page, The Notice shall include the heading in all capital letters, NOTICE OF PROPOSED SUMMARY RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page;~~
- ~~2. followed by the On a centered line under the notice heading, the agency's Code Title, its number and heading entered on the line under the notice heading;~~
- ~~3. On a centered line below the Title number and heading, the agency's Code followed by the Chapter, its number, and heading entered below the Title;~~
- ~~4. If applicable, on a centered line under the Chapter number and heading the agency's Code followed by the Subchapter, its label and heading entered below the Chapter, if applicable;~~
- ~~5. On a centered line under the Chapter or Subchapter heading, whichever is applicable, followed by the term heading in all capital letters and underlined, PREAMBLE in all capital letters centered on a line below the Chapter or Subchapter, whichever is applicable; The Preamble of the Notice of Proposed Summary Rulemaking shall include, followed by the items listed below in the same numbered order:~~
 - ~~1-a. The A list of the Articles, Parts, or Sections Affected affected and the Rulemaking Action rulemaking action of each Article, Part, or Section affected in two columns as specified in R1-1-502(B)(4) R1-1-502(B)(5);~~
 - ~~2-b. The Citations to the agency's statutory rulemaking authority for the rulemaking, to including include both the authorizing statute (general) and the implementing statute (specific);~~
 - ~~3-c. The interim effective date of the summary rule as specified in A.R.S. § 41-1027(D);~~
 - ~~4-d. The agency's contact person who can answer questions about the rulemaking. This information shall include the contact's:~~
 - ~~i. name Name; and~~
 - ~~ii. address Address of agency personnel with whom persons may communicate regarding the rulemaking;~~
 - ~~iii. Area code and telephone number; and~~
 - ~~iv. Fax number, e-mail and web site addresses, if applicable.~~
 - ~~5-e. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered explanation of the rulemaking, to including include an explanation about the agency's reasons for initiating the rulemaking;~~
 - ~~6-f. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state;~~
 - ~~7-g. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material;~~
 - ~~8-h. If required, The a preliminary summary of the economic, small business, and consumer impact, if required or If not required, a statement of exemption under A.R.S. § 41-1055(D);~~
 - ~~9-i. The Agency personnel to contact about the accuracy of the summary of the economic, small business, and consumer impact statement. This information shall include the contact's:~~
 - ~~i. name Name; and~~
 - ~~ii. address Address of agency personnel with whom persons may communicate regarding the accuracy of the summary of the economic, small business, and consumer impact statement;~~
 - ~~iii. Area code and telephone number; and~~
 - ~~iv. Fax number, e-mail and web site addresses, if applicable.~~
 - ~~10-j. The time, place, and nature of the proceedings for the to make, amendment amend, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed summary rule or rules;~~
 - ~~11-k. An A explanation of justification to why the use of summary proceedings are justified;~~
 - ~~12-l. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules; and, Additional matters shall include but are not limited to:~~
 - ~~i. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used;~~
 - ~~ii. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law; and~~
 - ~~iii. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states.~~
 - ~~13-m. The phrase "The full text of the rules follows:".~~
6. The full text of the rules in the rulemaking package shall begin on the page after the last page of the Preamble and contain the text as specified in ~~R1-1-502(B)(13) R1-1-502(B)(18).~~

B.C. ~~Within 90 days after publication in the Register and after consideration of any comments, an~~ If an agency determines it

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meets the requirements in A.R.S. § 41-1027(A) through (E) it shall prepare a Notice of Final Summary Rulemaking. An agency shall, within 90 days after publication in the *Register* and after consideration of any comments, submit to the Council its final summary rule, along with the Preamble, concise explanatory statement, and economic, small business, and consumer impact statement.

C.D. An agency shall submit a summary rulemaking package to the Council as specified in subsection (B). The A Notice of Final Summary Rulemaking shall include contain:

1. On a centered line one inch from the top of the page, the heading in all capital letters NOTICE OF FINAL SUMMARY RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page;
2. followed by the On a centered line under the notice heading, the agency's Code Title, its number and heading entered under the notice heading;
3. On a centered line under the Title number and heading, the agency's Code followed by the Chapter, its number, and heading entered below the Title;
4. If applicable, on a centered line under the Chapter number and heading the agency's Code followed by the Subchapter, its label and heading, if applicable, centered on a line below the Chapter;
5. On a centered line under the Chapter or Subchapter heading, whichever is applicable, followed by the term heading in all capital letters and underlined, PREAMBLE in all capital letters, centered below the Chapter or Subchapter, whichever is applicable; The Preamble of the Notice of Final Summary Rulemaking shall include, followed by the items listed below in the same numbered order:
 - 1-a. The A list of Articles, Parts, or Sections Affected affected and the Rulemaking Action rulemaking action of each Article, Part, or Section affected in two columns as specified in R1-1-502(B)(4) R1-1-502(B)(5);
 - 2-b. The Citations to the agency's statutory rulemaking authority for the rulemaking, to including include both the authorizing statute (general) and the implementing statute (specific);
 - 3-c. The permanent effective date of the summary rule as specified in A.R.S § 41-1027(D);
 - 4-d. Citations to all related notices published in The the Register citation for the as specified in R1-1-409(A) that pertain to the record of the Notice of Proposed Final Summary Rulemaking package;
 - 5-e. The agency's contact person who can answer questions about the rulemaking. This information shall include the contact's:
 - i. name Name; and
 - ii. address Address of agency personnel with whom persons may communicate regarding the rulemaking;
 - iii. Area code and telephone number; and
 - iv. Fax number, e-mail and web site addresses, if applicable.
 - 6-f. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered explanation of the rule, to include an explanation about and the agency's reasons for initiating the rule rulemaking;
 - 7-g. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material;
 - 8-h. A showing of good cause why the rule rulemaking is necessary to promote a statewide interest if the rule rulemaking will diminish a previous grant of authority of a political subdivision of this state;
 - 9-i. If required, A a summary of the economic, small business, and consumer impact, if required or If not required, a statement of exemption under A.R.S. § 41-1055(D);
 - 10-j. A description of the any changes between the proposed summary rule rulemaking and the final summary rule rulemaking;
 - 11-k. A An agency's summary of the public or stakeholder comments made regarding about the rule rulemaking and the agency response to them the comments;
 - 12-l. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules; and, Additional matters include but are not limited to:
 - i. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used;
 - ii. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law; and
 - iii. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states.
 - 13-m. The phrase "The full text of the rules follows:".
6. The full text of the rules in the rulemaking package shall begin on the next page after the last item in the Preamble and contain the text as specified in R1-1-502(B)(18).

E. A summary rulemaking package shall include:

1. Two agency receipts as specified in R1-1-106;
2. An original and two copies of the agency certificate as specified in R1-1-105;
3. If the notice is a Notice of Final Summary Rulemaking, an original and two copies of Council's certificate of

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approval as specified in R1-1-105.

4. An original and two copies of the rulemaking package as specified in R1-1-103;
5. An economic, small business, and consumer impact statement if required by A.R.S. § 41-1055; and
6. An agency that received an analysis that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states, shall file the analysis with the rulemaking.

~~D.F.~~ Upon approval from the Council approves of the final summary rule, the Council shall attach its certificate of approval to the original of the final summary rulemaking package and submit one original and two copies of the file the final summary rulemaking package, to include all documents listed in subsection (E) with the Office.

ARTICLE 9. EXEMPT RULEMAKING

R1-1-902. Notice of Exempt Rulemaking

A. If an agency determines it meets the requirements of A.R.S. §§ 41-1005 and 41-1057, or has been given a statutory exemption, an agency shall prepare a Notice of Exempt Rulemaking as prescribed in this Section.

~~A.B.~~ A Notice of Exempt Rulemaking shall contain:

1. On a centered line one inch from the top of the page, the heading in all capital letters NOTICE OF EXEMPT RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page;
2. followed by the On a centered line under the notice heading, the agency's Code Title, its label, number and heading centered on a line below the notice heading;
3. On a centered line under the Title number and heading the agency's Code followed by the Chapter, its label, number and heading centered on a line below the Title;
4. If applicable, on a centered line under the Chapter number and heading the agency's Code followed by the Subchapter, its label; and heading centered on a line below the Chapter, if applicable;
5. On a centered line under the Chapter or Subchapter heading, whichever is applicable, followed by the term heading in all capital letters and underlined, PREAMBLE in all capital letters, centered on a line below the Chapter or Subchapter, whichever is applicable; The Preamble of the Notice of Exempt Rulemaking shall include followed by the items listed below in the same numbered order:
 - 1-a. The A list of Articles, Parts, or Sections Affected affected and the Rulemaking Action rulemaking action of each Article, Part, or Section affected in two columns as specified in R1-1-502(B)(4) R1-1-502(B)(5);
 - 2-b. The Citations to the agency's specific statutory rulemaking authority for the rulemaking including to include:
 - i. the The authorizing statute (general),
 - ii. the The implementing statute (specific), and
 - iii. the The statute or session law authorizing the exemption;
 - 3-c. The effective date for of the rule and the agency's reason it selected the effective date;
 - 4-d. A list of all previous notices published in the Register addressing as specified in R1-1-409(A) that pertain to the record of the exempt rule rulemaking;
 - 5-e. The agency's contact person who can answer questions about the rulemaking. This information shall include the contact's:
 - i. name Name; and
 - ii. address Address of agency personnel with whom persons may communicate regarding the rulemaking;
 - iii. Area code and telephone number; and
 - iv. Fax number, e-mail and web site addresses, if applicable.
 - 6-f. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered explanation of the rule, including the agency's reasons for initiating to include an explanation about the rulemaking;
 - 7-g. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material;
 - 8-h. A showing of good cause why the rule rulemaking is necessary to promote a statewide interest if the rule rule-making will diminish a previous grant of authority of a political subdivision of this state;
 - 9-i. The summary of the economic, small business, and consumer impact, if applicable;
 - 10-j. A description of the any changes between the proposed rule rulemaking, including any supplemental proposed notices rulemaking, and the final rule rulemaking, (if applicable);
 - 11-k. A An agency's summary of the public or stakeholder comments made regarding about the rule rulemaking and the agency response to them the comments, if applicable;
 - 12-l. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules; and, When applicable, matters shall include, but not be limited to:
 - i. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used;
 - ii. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law; and

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- iii. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states.
- ~~13-m. A list of Any any material incorporated by reference material and its location in the ~~text rule~~.~~
- ~~14-n. Whether the rule was previously made, amended, repealed, or renumbered as an emergency rule, and, if so, If so, the agency shall state whether where the text was changed between the making as an emergency and the making of the exempt rules rulemaking packages.~~
- ~~15-o. The phrase “The full text of the rules follows:”.~~
- 6. The full text of the rules in the rulemaking package shall begin on the next page after the last item in the Preamble and contain the text as specified in R1-1-502(B)(18).
- ~~B.C. An original exempt rulemaking package submitted to the Office for filing and publication shall include: an agency certificate as specified in R1-1-105 and an agency receipt as specified in R1-1-106.~~
 - ~~1. Two agency receipts as specified in R1-1-106;~~
 - ~~2. An original and two copies of the agency certificate as specified in R1-1-105;~~
 - ~~3. An original and two copies of the rulemaking package as specified in R1-1-103;~~
 - ~~4. An economic, small business, and consumer impact statement if required by A.R.S. § 41-1055; and~~
 - ~~5. An agency that received an analysis comparing the rule’s impact of the competitiveness of business in this state to the impact on business in other states, shall file the analysis with the rulemaking.~~
- ~~C. An agency incorporating materials by reference shall include one copy of the material with the original final exempt rulemaking package filed with the Office.~~

NOTICE OF FINAL RULEMAKING

TITLE 1. RULES AND THE RULEMAKING PROCESS

CHAPTER 6. GOVERNOR’S REGULATORY REVIEW COUNCIL

Editor’s Note: The following Notice of Final Rulemaking was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 1429.) The Governor’s Office authorized the notice to proceed through the rulemaking process on July 2, 2010.

[R11-85]

PREAMBLE

1. **Sections Affected**

- R1-6-102
- R1-6-103
- R1-6-104
- R1-6-106
- R1-6-107
- R1-6-108
- R1-6-109
- R1-6-110
- R1-6-111
- R1-6-111
- R1-6-112
- R1-6-112
- R1-6-113
- R1-6-114
- R1-6-115
- R1-6-401
- Article 5
- R1-6-501

Rulemaking Action

- Amend
- Renumber
- Amend
- Renumber
- Amend
- Amend
- New Section
- New Section
- Amend
- New Article
- New Section

2. **The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 41-1051(E)
 Implementing statute: A.R.S. §§ 41-1027, 41-1037, 41-1051 through 41-1056.01

3. **The effective date of the rules:**

September 5, 2011

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4. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 16 A.A.R. 1675, August 27, 2010

Notice of Proposed Rulemaking: 16 A.A.R. 2310, December 3, 2010

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Joseph Sciarrotta, Jr.; G.R.R.C. Chairman

Address: 100 N. 15th Ave., Suite 401
Phoenix, AZ 85007

Telephone: (602) 542-2181

Fax: (602) 542-2199

E-mail: joseph.sciarrotta@azdoa.gov

or

Name: Bill Hysten, G.R.R.C. Staff Attorney

Address: 100 N. 15th Ave., Suite 402
Phoenix, AZ 85007

Telephone: (602) 542-4113

Fax: (602) 542-1486

E-mail: william.hysten@azdoa.gov

6. An explanation of the rule, including the agency's reasons for initiating the rule:

The Governor's Regulatory Review Council (G.R.R.C.) is amending its rules to implement the changes made to the Administrative Procedure Act (A.R.S. § 41-1001 et seq.) by HB 2260 and HB 2617 in 2010, Second Regular Session (Laws 2010, Ch. 287, 309). Changes to the rules include adding Sections to establish requirements for filing an early review petition of a proposed rule, a petition for repeal of an obsolete rule, and a request for an extension to file a five-year review report. The new statutory criteria for G.R.R.C. approval of rules are being incorporated into the rules. The rules are also being amended to make them more clear, concise, and understandable.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

G.R.R.C. has not reviewed any study related to this rulemaking.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

The primary economic impact of the rules is providing procedures necessary to implement recent statutory changes. New Sections added by this rulemaking establish the procedures for persons filing a petition for early review of a proposed rule (R1-6-501), and a petition for an agency to consider including an obsolete rule in a scheduled five-year-review report with recommendation for repeal (R1-6-115). Additional changes to clarify existing rules should have a beneficial economic impact on all users of the rules. The rulemaking will apply to all state agencies subject to G.R.R.C. review, currently estimated at 100 agencies. The rulemaking will also apply to members of the public filing an appeal of an economic, small business, and consumer impact statement (EIS) with G.R.R.C. or making comments on a rulemaking or five-year review report filed with G.R.R.C.

The economic impact of new Section R1-6-114 regarding a request for an extension to file a five-year review report will provide more structure and clarity to the process of an agency asking for an extension. A.R.S. § 41-1056 has been amended to give G.R.R.C. discretion in whether to grant an extension and the length of any extension granted. The rules provide that an extension request of 120 days or less will be administratively granted and an extension of 121 to 180 days must be considered by Council.

The economic impact of the rulemaking is expected to be minimal (less than \$1,000) for all persons involved in the rulemaking, five-year review, and appeal processes. G.R.R.C. administration believes the rules establishing procedures for filing the two new petitions make the most efficient use of staff resources while providing the maximum amount of information to Council in a timely fashion.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Non-substantive changes were made to the proposed rules in response to comments received, as described in item 11 below. In addition, items proposed to be included in an agency's cover letter accompanying a final rulemaking were removed from R1-6-104(i),(j),(k) because these items will be required in the Preamble for a Notice of Final Rulemak-

ing under the Secretary of State's new rules (See 17 A.A.R. 148, February 11, 2011). A reference to a Notice of Final Summary Rulemaking was added to R1-6-107 to cover the possibility that a summary rulemaking could be approved by G.R.R.C. with changes. A reference to summary rulemaking was also added to R1-6-501 to clarify that the recently amended A.R.S. § 41-1052(B) would allow an early review petition to be filed for a proposed summary rule. Other non-substantive grammatical and technical changes were also made to increase clarity, make the rules internally consistent, and ensure that the new requirements of the APA as amended in 2010 are clearly reflected in rule.

11. A summary of the comments made regarding the rules and the agency response to them:

The agency solicited comments from stakeholders prior to the formal comment period and addressed all comments received, including incorporating many of the changes suggested by stakeholders into the Notice of Proposed Rulemaking. The agency received the following written comments on the rules during the formal comment period from Jeanne Hann of Arizona Rules, L.L.C.:

Comment: R1-6-104(B)(3) says "... impact OF businesses in other states." In all other instances, the language is "... impact ON businesses in other states."

Response: A change was made to make the language consistent

Comment: R1-6-111(A)(9) requires that a 5YRR contain a comparison of the current economic impact of rule with the EIS prepared on the last making of a rule. For rules that have not been amended in 10 or 15 years, this gets to be burdensome. If a 5YRR submitted five years after a rule was made/amended determines that the EIS was accurate, how much chance is there that the EIS will become inaccurate in another five or 10 years? This becomes additionally burdensome because R6-1-111(D) requires that a copy of each EIS applicable to the 5YRR be submitted. An entire EIS may have to be submitted because one of the rules in the rulemaking addressed by the EIS has not been amended in 10 or 15 years. I understand that A.R.S. § 41-1056(A)(6) refers to the "... EIS prepared on the last making of the rules" but cannot believe that the legislature, which seems so concerned about burdensome rules, would expect the statute to be interpreted in a manner that is so burdensome.

Response: No change was made in response to the comment. R1-6-111(A)(9) reflects the requirement of A.R.S. § 41-1056(A)(6) that a five-year-review-report include a concise analysis of "the estimated economic, small business and consumer impact of the rules as compared to the economic, small business and consumer impact statement prepared on the last making of the rules." It is G.R.R.C.'s responsibility to enforce the statute's clear requirement that the agency compare the current impact with the impact estimated during the last rulemaking. If there has been no change in the economic impact from the last rulemaking, the agency can briefly note this. In order for G.R.R.C. staff to evaluate the economic impact comparison, an agency provides a copy of the EIS prepared on the last making of the rules. These requirements are necessary for G.R.R.C. to comply with statutory requirements.

Comment: R1-6-111(F): why is G.R.R.C. treating an agency roll-over of a 5YRR differently than a roll-over of a rule package? What is the problem being addressed? Also, what happens if the roll-over is initiated by G.R.R.C., which happens when staff is overwhelmed with work—5YRRs generally take low priority when that happens?

Response: No change was made in response to the comment. Currently, five-year-review reports tend to be moved at the request of the agency from one agenda to the next more often and for longer periods than rulemakings. Agencies generally want to finalize a rulemaking quickly so the new rules can become effective. The same incentive is not present for five-year reviews in which in agency is merely reviewing current rules, which has led to at least one report being "rolled" for more than a year. The rule's limitation on moving a report to another agenda applies only to requests by the agency ("an agency may make one request that a report be moved..."), not to a roll-over initiated by G.R.R.C. staff due to work load.

Comment: R1-6-112(A): the words "rulemaking" and "rule" are used interchangeably.

Response: The rule was revised to make the language consistent.

Comment: R1-6-112(D)(5) and (6), R1-6-115(A), R1-6-401(A), and R1-6-501(B) and (D): why are you requiring that so many paper copies of materials be submitted when staff will fax the material to G.R.R.C. and the affected agency rather than hand deliver or mail it? This is unnecessarily burdensome.

Response: A person may file comments, petitions, and appeals electronically or on disk or CD. The cited rules do not require submission of paper copies, they merely allow it should a person choose not to file electronically. As there are no page limits for appeals and written comments, the amount of documentation submitted, including attachments, could be substantial. In the case of a large filing, the documents may be delivered or mailed to G.R.R.C. members rather than faxed. Because petitions filed under R1-1-115 or R1-6-501 are subject to a five-page limit, the requirement for multiple paper copies has been removed for petitions. Only one copy will be required if the agency chooses not to file electronically.

Comment: Why require that documents be prepared using an Arial font? If so, why is this requirement applicable only to these documents and not rule packages and 5YRRs? And, what are you going to do if the documents are submitted in a different font?

Response: No change was made in response to the comment. The rules require that a petition for repeal of an obsolete rule and an early review petition, both of which have a five-page limit, be in Arial typeface of no less than 12 point. This is to prevent petitioners from evading the purpose of the page limit by using a small, difficult to read font.

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There is no page limit for rules, five-year reviews, appeals, or written comments and therefore, there is no typeface or font requirement for these documents. Page limits are applicable to petitions because petitions are preliminary objections to a proposed rule or rule scheduled to be included in a five-year-review report. A petitioner is able to present further evidence or argument when G.R.R.C. considers the final rule or five-year review in which the rule is reviewed. It is within the Council's discretion to determine how to proceed when petitions are filed that do not meet the rules' requirements.

Comment: R1-6-115(D): the internal citation should be to subsection (C).

Response: This change was made.

Comment: R1-6-401(A)(1)(e): Because you now have three items in the list in this subsection, I recommend that "either" be deleted.

Response: This change was made.

Comment: Under R1-6-104(A)(1)(c), the cover letter attached to a rule package is required to indicate whether the rulemaking relates to a 5YRR and if so, the date the 5YRR was approved by Council. This provision was added many years ago because Council members requested the information. Now that the same info is required in the Preamble to a Notice of Final Rulemaking, the cover letter requirement is duplicative. As such, it imposes a burden on agencies (even if minimal) that should be eliminated.

Response: Nothing in the Secretary of State's current rules, the Secretary of State's Notice of Proposed Rulemaking (16 A.A.R. 1892, September 24, 2010), or the Notice of Supplemental Proposed Rulemaking (17 A.A.R. 148, February 11, 2011) requires that agencies indicate in the Notice of Final rulemaking whether the rulemaking relates to a five-year-review report. The information is still necessary in the cover letter.

The following comment was received from Jerry Perkins of the Radiation Regulatory Agency:

Comment: Under R1-6-104(A)(1)(h), does the agency need to notify JLBC if there are no new full-time employees necessary to implement and enforce the rule?

Response: After consultation with the Director of the Joint Legislative Budget Committee (JLBC), R1-6-104(A)(1)(h) was changed to specify that if there are no new full time employees necessary to enforce and implement the rule, the agency is not required to notify JLBC.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporation by reference and their location in the rules:

None

14. Were these rules previously made as emergency rules? If so, please indicate the Register citation:

No

15. The full text of the rules follows:

TITLE 1. RULES AND THE RULEMAKING PROCESS

CHAPTER 6. GOVERNOR'S REGULATORY REVIEW COUNCIL

ARTICLE 1. RULES OF PROCEDURE

Section

- R1-6-102. Meetings
- R1-6-103. Schedule and Filing Deadlines
- R1-6-104. Placing a Regular Rule on the Council Agenda
- R1-6-106. Placing a Final Summary Rule on the Council Agenda
- R1-6-107. Submitting Approved Regular or Summary Rules
- R1-6-108. Filing Rules Approved by the Council
- R1-6-109. Returned Rules and Five-Year Review Reports
- R1-6-110. Appearance by the Agency
- ~~R1-6-112.~~ R1-6-111. Five-year Review Report
- ~~R1-6-111.~~ R1-6-112. Oral and Written Comments
- R1-6-113. Rescheduling a Five-year Review Report
- R1-6-114. Extension to File a Five-year Review Report
- R1-6-115. Petition under A.R.S. § 41-1056(I) for an Agency to Consider Including an Obsolete Rule in a Scheduled Five-

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year Review Report with Recommendation for Repeal

ARTICLE 4. APPEALS OF ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENTS

Section

R1-6-401. Appeal of an Economic, Small Business, and Consumer Impact Statement

ARTICLE 5. EARLY REVIEW PETITION

Section

R1-6-501. Early Review Petition of a Proposed Rule

ARTICLE 1. RULES OF PROCEDURE

R1-6-102. Meetings

- A. The Chair, in consultation with the Council, shall set regular meeting dates of the Council for each calendar year by the preceding October 31 and shall post notice of each regular meeting according to the Open Meeting Law.
- B. The Chair or Council may schedule a special meeting to consider any matter it may consider at a regular meeting. The Council shall post notice of a special meeting according to the Open Meeting Law at least ~~48~~ 24 hours before the special meeting.
- C. The Council may recess a regular or special meeting to a later date if, before recessing, the Chair gives notice of the date and time of the resumption of the meeting and posts a notice of resumption of the meeting according to the Open Meeting Law.

R1-6-103. Schedule and Filing Deadlines

The Chair, in consultation with Council, shall establish for each calendar year, by the preceding October 31, a schedule containing filing deadlines based on the ~~and~~ meeting dates established under R1-6-102 for Council review of:

1. Rules submitted or if applicable, resubmitted to the Council including new, amended, repealed, or renumbered rules; and
- ~~2. Rules resubmitted under R1-6-109(1); and~~
- ~~3-2.~~ Five-year review reports.

R1-6-104. Placing a Regular Rule on the Council Agenda

- A. To place a regular rule on the Council agenda, an agency shall deliver to the Council office two rule packages prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State. The agency shall ensure that each rule package contains the following items assembled in the following order:
 1. Cover letter signed by the agency head specifying:
 - a. The close of record date;
 - b. Whether definitions of terms contained in statutes or other rules and used in the rule are attached;
 - c. Whether the rulemaking relates to a five-year review report and, if applicable, the date the report was approved by the Council;
 - d. Whether the rule contains a new fee and, if it does, citation of the statute expressly authorizing the new fee;
 - e. Whether the rule contains a fee increase;
 - f. Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032;
 - g. A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule; ~~and~~
 - h. If one or more full-time employees are necessary to implement and enforce the rule, a certification that the preparer of the economic, small business, and consumer impact statement has notified the Joint Legislative Budget Committee of the number of new full-time employees necessary to implement and enforce the rule; and
 - ~~h-i.~~ A list of all items enclosed.
 2. Notice of Final Rulemaking, required by A.A.C. R1-1-602, including the preamble, table of contents for the rulemaking, and text of each rule;
 3. Economic, small business, and consumer impact statement that contains the information required by A.R.S. § 41-1055;
 4. Copy of the existing rule if the entire existing rule is not shown as part of the revised text of a rule the agency is amending; and
 5. Copy of definitions of terms, used in the rule, that are defined in statute or another rule, if any.
- B. In addition to the items specified in subsection (A), an agency shall submit one copy of each of the following:
 1. All written comments received by the agency concerning the proposed rule and a written record, transcript, or minutes of any oral comments received if the agency maintains a written record, transcript, or minutes, if any; and
 2. Materials incorporated by reference, if any; and
 3. Any analysis submitted to the agency that compares the rule's impact on the competitiveness of businesses in this state to the impact on businesses in other states.

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- C. After a rule is placed on the Council agenda, Council staff shall review the rule for compliance with the requirements of A.R.S. § ~~41-1052(C)~~ 41-1052(D), ~~(D)~~ (E), and ~~(E)~~ (F) and this Chapter and may suggest changes to the agency. After making any change, the agency shall submit the rule package to the Council office under one of the following alternatives:
1. If the agency believes it is likely that the rule package will be approved by the Council without change, it shall submit:
 - a. Four paper copies of the ~~rule package items listed~~ Notice of Final Rulemaking as specified in subsections subsection (A)(2) and the economic, small business, and consumer impact statement as specified in subsection (A)(3), assembled in the order specified in subsection (A);
 - b. One original and three paper copies of an agency certificate prepared as provided in A.A.C. R1-1-105 except that the statement in A.A.C. R1-1-105(A)(3)(f) that no changes have been made since the Council approved the rule item in R1-1-105(B)(6) shall be omitted;
 - c. Two paper copies of an agency receipt prepared as provided in A.A.C. R1-1-106; and
 - d. One of the following:
 - ~~d.i.~~ A computer disk or CD that contains the items listed in subsection (A) and the general and specific statutes authorizing the rule; or
 - ~~e.ii.~~ A computer disk or CD that contains the ~~item listed~~ Notice of Final Rulemaking specified in subsection (A)(2) and an electronic copy of all the items listed in subsection (A) and the general and specific statutes authorizing the rule; or
 2. If the agency is uncertain whether the rule package will be approved by the Council without change, it shall submit:
 - a. One paper copy of the ~~items listed~~ Notice of Final Rulemaking in subsections subsection (A)(2) and the economic, small business, and consumer impact statement in subsection (A)(3); and
 - b. One of the following:
 - ~~b.i.~~ A computer disk or CD that contains all the items listed in subsection (A) and the general and specific statutes authorizing the rule; or
 - ~~e.ii.~~ An electronic copy of all the items listed in subsection (A) and the general and specific statutes authorizing the rule.
- D. After a rule is placed on the Council agenda, an agency may have the rule moved to the agenda of a later meeting by having the agency head send a notice to the Chair that includes the date of the later meeting.
- E. If it is necessary for a rule to be heard at more than one Council meeting, the agency shall contact the Council staff to learn which rule-package items the agency needs to resubmit for the later meeting.

R1-6-106. Placing a Final Summary Rule on the Council Agenda

- A. To place a final summary rule on the Council agenda, an agency shall deliver to the Council office the following items, prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:
1. The cover letter described in subsection (B)(1);
 2. Four paper copies of the ~~items listed~~ Notice of Final Summary Rulemaking in subsections subsection (B)(2) and the economic, small business, and consumer impact statement through (B)(4), assembled in the order specified in subsection ~~(B)~~ (B)(3);
 3. One original and three paper copies of an agency certificate prepared as provided in A.A.C. R1-1-105, except that the statement in A.A.C. R1-1-105(A)(3)(f) that no changes have been made since the Council approved the rule item in R1-1-105(B)(6) shall be omitted;
 4. Two paper copies of an agency receipt prepared as provided in A.A.C. R1-1-106; and
 5. A computer disk or CD that contains all the items listed in subsection (B) and the general and specific statutes authorizing the rule; or
 6. A computer disk or CD that contains the Notice of Final Summary Rulemaking item listed in subsection (B)(2) and an electronic copy of all the items listed in subsection (B) and the general and specific statutes authorizing the rule.
- B. An agency shall ensure that the rule package contains the following items assembled in the following order:
1. Cover letter signed by the agency head specifying:
 - a. The close of record date;
 - b. Whether the rulemaking relates to a five-year review report and, if applicable, the date the report was approved by the Council;
 - c. Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032;
 - d. A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule; and
 - e. A list of all items enclosed.
 2. Notice of Final Summary Rulemaking, required by A.A.C. R1-1-801, including the preamble, table of contents for the final summary rulemaking, and text of each final summary rule;
 3. Economic, small business, and consumer impact statement that:
 - a. ~~contains~~ Contains the information required by A.R.S. § 41-1055 or a statement that the rulemaking is exempt from this requirement under A.R.S. § 41-1055(D)(2); and

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b. If applicable, contains an explanation of why repeal of the obsolete rule does not increase the cost of compliance under A.R.S. § 41-1027(A)(3).

4. ~~Concise explanatory statement.~~

C. In addition to the items specified in subsection (B), an agency shall submit one copy of all written comments received by the agency concerning the proposed summary rule and any analysis submitted to the agency that compares the rule's impact on the competitiveness of businesses in this state to the impact on businesses in other states.

R1-6-107. Submitting Approved Regular or Summary Rules

A. For a final regular rule placed on the Council's agenda under R1-6-104(C)(2) and approved by the Council or placed on the Council's agenda under R1-6-104(C)(1) and approved by the Council with changes or a final summary rule approved by the Council with changes, an agency shall deliver to the Council office within 14 calendar days after Council approval, unless a later date is arranged under subsection (B), the following items, prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:

1. A letter identifying each change made at the direction of the Council. If no changes were directed, no letter is required;
2. One original and three paper copies of the following items assembled in the following order:
 - a. Agency certificate, ~~required by A.A.C. R1-1-105(B)~~; and
 - b. Items listed in R1-6-104(A)(2) Notice of Final Rulemaking or Notice of Final Summary Rulemaking and the economic, small business, and consumer impact statement (A)(3).
3. Two copies of the receipt required by A.A.C. R1-1-106; and
4. One computer disk or CD that contains the item listed in R1-6-104(A)(2) or R1-6-106(B)(2).

B. If an agency is unable to deliver an approved regular rule or summary rule to the Council office within the time specified in subsection (A), the agency shall contact the Council office and arrange to submit the approved rule at a later date.

R1-6-108. Filing Rules Approved by the Council

A. If the Council approves ~~an agency rule a Notice of Final Rulemaking as submitted under R1-6-104(C)(1) or R1-6-106(A) or if the Council approves an agency rule as submitted under R1-6-104(C)(2) or Notice of Final Summary Rulemaking~~ and the agency submits the items required by R1-6-107, the Council shall file the original and two copies of the agency's items; two copies of the agency receipt; and the computer disk or CD, with the Office of the Secretary of State. The Council shall include an original and two copies of a written notice specifying the Sections approved and the date of Council approval.

B. If the Council approves a preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement subject to the agency making changes as directed by the Council, and the agency submits the items required by R1-6-107:

1. Council staff shall verify that each change required by the Council was made and file the items with the Office of the Secretary of State as prescribed in subsection (A).
2. If an agency submits a revised preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement that does not contain the exact words approved by the Council, Council staff shall notify the agency and require that the items be submitted as approved or schedule the matter for reconsideration by the Council.

C. Except as specified in subsection (B), an agency shall not make any change to a preamble, table of contents for the rule-making, rule, economic, small business, and consumer impact statement, or materials incorporated by reference after Council approval.

R1-6-109. Returned Rules and Five-year Review Reports

~~A.~~ The Council may vote to return a preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement under A.R.S. § ~~41-1052(B)~~ 41-1052(C), after identifying the manner in which the returned rule-package item does not meet the standards at A.R.S. § ~~41-1052(C)~~ 41-1052(D) through ~~(E)~~ (F).

1. The Council may schedule a date for resubmission in consultation with the agency representative.
2. An agency resubmitting a preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement to the Council shall attach to the resubmitted rule-package item a letter that:
 - a. Identifies all changes made in response to the Council's explanation for its return of the ~~rule package rule-pack-~~ age item,
 - b. Explains how the changes ensure that the ~~rule package rule-package~~ item meets the standards at A.R.S. § ~~41-1052(C)~~ 41-1052(D) through ~~(E)~~ (F), and
 - c. Shows that the resubmitted rule is not substantially different from the proposed rule under the standards in A.R.S. § 41-1025.
3. In accordance with R1-6-110, an agency representative shall appear at the Council meeting at which the resubmitted preamble, table of contents for the rulemaking, rule, or economic, small business, and consumer impact statement is to be considered.

B. The Council may vote to return a five-year review report after identifying the manner in which the five-year review report

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does not meet the standards in A.R.S. § 41-1056(A)(1) through (9).

1. The Council, in consultation with the agency, shall schedule submission of a revised report.
2. An agency submitting a revised five-year review report shall attach to the revised report a letter that:
 - a. Identifies all changes made in response to the Council's explanation for return of the five-year review report, and
 - b. Explains how the changes ensure that the five-year review report meets the standards in A.R.S. § 41-1056(A)(1) through (9).

R1-6-110. Appearance by the Agency

- A. A representative of an agency shall appear at the Council meeting at which the agency rule or five-year review report is to be considered to respond to questions and comments by the Council.
- B. If an agency representative fails to appear at the Council meeting at which the agency rule or five-year review report is considered, the Council ~~shall allow public comment and may:~~
 1. ~~Approve the rule or report,~~
 2. ~~Reschedule consideration of the rule or report, or,~~
 3. ~~Return the rule or report, in whole or in part, to the agency, or~~
 3. Approve the rule or report, in whole or in part, after allowing public comment, if any.

~~R1-6-112.~~ **R1-6-111. Five-year Review Report**

- A. To place a five-year review report on the Council agenda, an agency shall deliver to the Council office two copies of the five-year review report required by A.R.S. § 41-1056. Except as indicated in subsection (B), the agency shall ~~separately discuss and present~~ concisely analyze and provide the following information in the five-year review report in the following order for each rule:
 1. General and specific statutes authorizing the rule;
 2. Objective of the rule;
 3. Effectiveness of the rule in achieving the objective;
 4. Consistency of the rule with state and federal statutes and rules, and a listing of the statutes or rules used in determining the consistency;
 5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement;
 6. Agency view regarding current wisdom of the rule;
 7. Clarity, conciseness, and understandability of the rule;
 8. Summary of the written criticisms of the rule received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings;
 9. A comparison of the current ~~Estimated~~ economic, small business, and consumer impact of the rule ~~as compared to~~ with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule; ~~and~~
 10. Any analysis submitted to the agency by another person that compares the rule's impact on this state's business competitiveness to the impact on businesses in other states;
 11. If applicable, whether the agency completed the course of action indicated in the agency's previous five-year review report;
 12. A determination that the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective; and
 - 10-13. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule.
- B. If the information regarding any of the items listed in subsection (A) is identical for any group of rules, the agency shall discuss that information in its five-year review report only once for the group of rules.
- C. An agency shall attach the following to each copy of a five-year review report:
 1. Cover letter, signed by the agency head, that identifies:
 - a. A person to contact for information regarding the report,
 - b. Any rule that is not reviewed with the intention that the rule will expire under A.R.S. § 41-1056(E), and
 - c. Any rule that is not reviewed because the Council rescheduled the review of the rule under A.R.S. § 41-1056(C), and
 2. Copy of the rules being reviewed.
- D. If an economic, small business, and consumer impact statement was prepared on the last making of a rule being reviewed, an agency shall attach one copy of the economic, small business, and consumer impact statement for the rule to the five-year review report.

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- E. After a five-year review report is placed on the Council agenda, Council staff shall review the report for compliance with the requirements of A.R.S. § 41-1056 and this Chapter and may suggest changes to the agency. After making any change, the agency shall submit to the Council office one paper copy of the five-year review report and one electronic copy of or a computer disk or CD that contains the ~~items listed~~ five-year review report as specified in subsections (A), the cover letter and rules specified in subsection and (C) (C)(2), and the general and specific statutes authorizing the rules reviewed.
- F. After a five-year review report is ~~placed on the Council agenda~~ filed, an agency may make one request that have the report be moved to the agenda of a later meeting scheduled for no later than 60 days after the request by having the agency head send a written request notice to the Chair that includes the date of the ~~later meeting~~. After the agency makes a request to have a five-year review report moved, an agency shall address any subsequent requests to the Chair. The Chair may grant or deny a subsequent request at the Chair's discretion.

R1-6-111. R1-6-112. Oral and Written Comments

- A. Under A.R.S. § ~~41-1052(G)~~ 41-1052(H) a person may submit written comments to the Council about an agency rulemaking within 60 days from Council receipt of the rulemaking. The date of Council receipt of the rule shall be posted on the Council's web site. Council staff shall notify the agency of any written comments received by the Council. An agency may submit a written response to the Council within 15 days of being notified by Council staff of the comment.
- B. A person may make oral comments about an agency rulemaking at a Council meeting.
- C. The Chair may limit the time allotted to each speaker and preclude repetitious comments.
- ~~C.D.~~ A person who makes written or oral comments to the Council shall:
 - 1. Ensure that the comments relate to a final rulemaking filed with the Council rule scheduled on the Council meeting agenda;
 - 2. Cite the particular provision of A.R.S. § ~~41-1052(C)~~ 41-1052(D) through ~~(E)~~ (F) that is the basis for the Council's authority to consider each issue addressed;
 - 3. State specifically how each issue relates to the particular provision cited;
 - 4. Tell what other efforts the person made to communicate with the rulemaking agency about each issue; and
 - 5. If making oral comments, submit ~~10 paper copies or one of the following~~ by at least 5:00 p.m. Arizona time six business days before a scheduled Council meeting: one electronic copy of, or a computer disk that contains, or CD, or 10 paper copies of any visual aids or written materials supplementing the oral comments to the ~~Administrator of Council staff, who analyst assigned.~~ The Council analyst shall forward a copy to each member of the Council, the Council's Assistant Attorney General, and the person identified as responsible for the agency's rulemaking; or
 - 6. If not making oral comments, submit ~~10 paper copies or one of the following~~ by at least 5:00 p.m. Arizona time six business days before a scheduled Council meeting: one electronic copy, of, or a computer disk or CD, that contains or 10 paper copies of any written comments to the ~~Administrator of Council staff, who shall forward analyst assigned.~~ The Council analyst shall forward a copy to each member of the Council, the Council's Assistant Attorney General, and the person identified as responsible for the agency's rulemaking.
- ~~D.E.~~ If materials are submitted under subsection (C)(5) or (C)(6) fewer than six business days before the Council meeting, the ~~Council Chair, in the Chair's discretion,~~ shall consider the reason for the untimely submittal, fairness to the rulemaking agency, and the best interests of the state in determining the action to take under A.R.S. § 41-1052.
- ~~E.~~ The Chair may limit the time allotted to each speaker and preclude repetitious comments.

R1-6-113. Rescheduling a Five-year Review Report

- A. To request that a five-year review report be rescheduled under A.R.S. § 41-1056(C), an agency head shall submit a letter to the Chair before the report is due but not more than 90 days before the report is due that includes the following information:
 - 1. The Title, Chapter, and Article of the rules for which rescheduling is sought;
 - 2. Whether the rules were initially made or substantially revised with an effective date that is within the last two years before the due date of the report; and
 - a. If substantially revised:
 - i. A description of the revisions,
 - ii. Why the revisions are believed to be substantial, and
 - iii. The date on which the rules were published in the *Register* by the Office of the Secretary of State and the effective date of the rules; or
 - b. If initially made, the date on which the rules were published in the *Register* by the Office of the Secretary of State and the effective date of the rules.
- B. The Chair or the Chair's designee, in the Chair's or Chair's designee's discretion, may grant the rescheduling of a five-year review report if all rules within an Article meet the requirements of this Section.

R1-6-114. Extension to File a Five-year Review Report

- A. An agency may obtain an extension of 120 days to file a five-year review report by filing a written notice of extension with the Council before the due date of the report. The agency shall specify in the notice the reason for the extension.

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B. An agency may request one extension of more than 120 days but less than 181 days to file the report by sending a written request to the Chair at least 40 days prior to the due date of the report. The agency shall specify the length of the requested extension and the reason for the requested extension.

1. A request for an extension of more than 120 days but less than 181 days shall be placed on the agenda of a Council meeting scheduled to occur prior to the due date of the report.
2. Council shall consider the extension request and may grant a request that is greater than 120 days but shall not grant an extension request that exceeds 180 days.

R1-6-115. Petition under A.R.S. § 41-1056(I) for an Agency to Consider Including an Obsolete Rule in a Scheduled Five-year Review Report with Recommendation for Repeal

A. A person shall file a petition under A.R.S. § 41-1056(I) at least 60 days before the original due date of the five-year review report in which the rule is scheduled to be reviewed. The person filing the petition shall deliver to the Council office one of the following: one electronic copy, a computer disk or CD, or one paper copy. The petition shall contain:

1. The name, mailing address, e-mail address, and fax and telephone numbers of the person filing the petition;
2. The name of the person being represented by the person filing the petition, if applicable;
3. A statement of why the rule is obsolete and should be repealed; and
4. A statement of how the person is regulated or could be regulated by the rule.

B. The petition shall not exceed five double-spaced pages and shall be in Arial typeface of no less than 12 point.

C. The Council shall notify the agency head of the petition by 5:00 p.m. of the business day following Council receipt of the petition. Within 14 days of the date the petition is filed the agency shall file one electronic copy, a computer disk or CD, or one paper copy of a response to the petition that either:

1. Indicates the agency will consider including the obsolete rule in the five-year review report with a recommendation for repeal, or
2. Includes a statement of why the rule is not obsolete and should not be repealed.

D. The Council shall schedule the petition for the next Council meeting as soon as practicable after receipt of the agency's response under subsection (C).

E. Within seven calendar days after the Council's decision on the petition, the Chair or the Chair's designee, shall send a letter to the affected agency head and the person filing the petition advising them of the Council's decision.

ARTICLE 4. APPEALS OF ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENTS

R1-6-401. Appeal of an Economic, Small Business, and Consumer Impact Statement

A. A person appealing an agency's final decision on whether to initiate a rulemaking under A.R.S. § 41-1056.01(D), shall deliver to the Council office ~~one of the following: one original and eight paper copies or one electronic copy, or a computer disk or CD, or one original and eight paper copies of an appeal.~~ The appeal shall contain ~~that contains, the following:~~

1. A request signed by the person submitting the appeal, citing the rule or rules being appealed and ~~including the following:~~
 - a. Name of the agency upon which the appeal is taken;
 - b. Name, ~~mailing~~ address, ~~e-mail~~ address, telephone number, and fax number, if any, of the person filing the appeal;
 - c. Name of the person being represented by the person filing the appeal, if applicable;
 - d. How the person filing the appeal is or may be affected by the agency's final decision made under A.R.S. § 41-1056.01(C); and
 - e. Why the person appealing believes ~~either~~ that:
 - i. Under A.R.S. § 41-1056.01(A)(1), the actual economic, small business, or consumer impact significantly exceeded the estimated impact; or
 - ii. Under A.R.S. § 41-1056.01(A)(2), the actual economic, small business, or consumer impact was not estimated on adoption of the rule; and the impact imposes a significant burden on persons subject to the rule; ~~or~~
 - iii. Under A.R.S. § 41-1056.01(A)(3), the agency did not select the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
2. A copy of the economic, small business, and consumer impact statement being addressed in the appeal; and
3. The data used by the person appealing to support the reasons listed under subsection (A)(1)(e).

B. The Council shall notify the affected agency head of an appeal of the economic impact of a rule by 5:00 p.m. of the business day following Council receipt of the appeal. The affected agency head shall deliver to the Council office the information and documents listed in subsection (C) no later than 5:00 p.m. on the third business day following notification by the Council of the appeal.

C. The head of an agency whose final decision is being appealed shall deliver to the Council office ~~one original and eight paper copies or one of the following: one electronic copy, or a computer disk or CD, or one original and eight paper copies of a response.~~ The response shall contain ~~that contains, the following:~~

1. A memorandum that includes the following:

Notices of Final Rulemaking

- a. Date of publication of the agency's final decision under A.R.S. § 41-1056.01(C);
 - b. Name, mailing address, e-mail address, telephone number, and fax number, if any, of each agency contact person;
 - c. Reasons why the agency believes ~~either~~ that:
 - i. The actual economic, small business, and consumer impact did not significantly exceed the estimated economic, small business, and consumer impact; or
 - ii. The actual economic, small business, and consumer impact was estimated on approval of the rule and the impact does not impose a significant burden on persons subject to the rule; ~~and or~~
 - iii. Under A.R.S. § 41-1056.01(A)(3), the agency selected the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective; and
 - d. A copy of final judgments, if any, issued by a court of competent jurisdiction that are based on whether the contents of the rule's economic, small business, and consumer impact statement were insufficient or inaccurate-;
2. A copy of the rule being appealed; and
 3. The agency's written summary prepared and published as required by A.R.S. § 41-1056.01(C).
- D. Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the affected agency head stating whether three Council members have requested that the appeal be considered at a Council meeting. If the appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- E. Within seven calendar days after the Council decides whether ~~either or both~~ one or more of the provisions in A.R.S. § 41-1056.01(A) are met, the Chair shall send a letter to the affected agency head and the person filing the appeal that specifies the decision, the reasons for and date of the Council decision, and the action, if any, required by the agency.

ARTICLE 5. EARLY REVIEW PETITION

R1-6-501. Early Review Petition of a Proposed Rule

- A.** A person may file an early review petition with Council after a proposed rule is published in the Register but before the rule is filed with Council as a final rule under R1-6-104 or R1-6-106.
- B.** The person filing the petition shall deliver to the Council office one of the following: one electronic copy, a computer disk or CD, or one paper copy. The petition shall contain:
1. The name, mailing address, e-mail address, and fax and telephone numbers of the person filing the petition;
 2. The name of the person being represented by the person filing the petition, if applicable;
 3. An explanation of how the proposed rule violates any of the criteria in A.R.S. § 41-1052(D);
 4. An explanation of why the Council should consider the petition at the proposed rulemaking stage; and
 5. An explanation of how the person would be adversely affected by the proposed rule.
- C.** The petition shall not exceed five double-spaced pages and shall be in Arial typeface of not less than 12 point.
- D.** The Council shall notify the agency head of the petition by 5:00 p.m. of the business day following Council receipt of the petition. Within 14 days of the date the petition is filed the agency shall file a response to the petition and deliver to the Council one of the following: one electronic copy, a computer disk or CD, or one paper copy. The agency shall deliver by mail or in person a copy of the response to the Petitioner. The response shall contain:
1. An explanation of why the proposed rule does not violate any of the criteria in A.R.S. § 41-1052(D);
 2. If applicable, an explanation of why the person would not be adversely affected by the proposed rule; and
 3. An explanation of why the rulemaking should be permitted to proceed to final rulemaking.
- E.** A reply brief is not permitted. Documents and exhibits supporting the petition or response shall only be allowed by a majority vote of the quorum present and upon written request that demonstrates good cause.
- F.** An early review petition filed under this Section does not stay the rulemaking process.
- G.** The Council shall consider the petition at a scheduled Council meeting as soon as practicable after receipt of the agency's response under subsection (D).
- H.** Within seven calendar days after the Council considers the petition, the Chair shall send a letter to the affected agency head and the person filing the petition, advising them of the Council's decision.